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HOLOCAUST HEARING BEFORE DEBORAH SENN

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INSURANCE COMMISSIONER FOR THE STATE OF WASHINGTON

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Hearing held at 900 Fourth Avenue #2400
Seattle, Washington

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DATE OF HEARING: January 13, 2000

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REPORTED BY: Joanie Nicholson, RPR, CSR NICHOW526RD

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1 A P P E A R A N C E S

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5 Insurance Commissioner Deborah Senn
Deputy Commissioner Jeffrey Coopersmith
6 Danny Kadden, Holocaust Survivors Assistance Office
Marvin Stern, Holocaust Survivors Assistance Office
7

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Allianz Representatives
9 Peter Lefkin, Senior Vice-President, Fireman's Fund
Sigurd Borgersen of Schwabe, Williamson & Wyatt
10

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Winterthur Representatives
12 Ulrich Thalmann, Senior Vice-President
Anne Smith, Vice-President, General Counsel
13 & Corporate Secretary
Brian Kreger of Ryan, Swanson & Cleveland
14

15

Generali Representatives
16 Christopher Carnicelli, CEO, Generali, US Branch
Marco Schnabl of Skadden, Arps, Slate, Meagher & Flom
17

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Zurich Representatives
19 Robert Raives, Counsel, Gilbert, Segall & Young
Dave Bowers, Executive Vice-President & General Counsel
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Axa Representatives
22 Phillippe Ferras, Executive Vice-President
Timothy Parker of Carney, Badley, Smith & Spellman
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1 SEATTLE, WASHINGTON; THURSDAY, JANUARY 13, 2000

2 1:45 p.m.

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01:07 PM 7 COMMISSIONER SENN: It's a quarter of 12, so we will get
01:07 PM 8 started. Good afternoon, I am Insurance Commissioner
01:07 PM 9 Deborah Senn. This is my Chief Counsel, Deputy
01:07 PM10 Commissioner Jeffrey Coopersmith. Marvin Stern and Danny
01:07 PM11 Kadden are from our Holocaust Division.

01:07 PM12 I want to thank you for coming today, and let me
01:07 PM13 talk about the purpose of our hearing today.

01:07 PM14 Last year our state legislature unanimously
01:07 PM15 approved the Washington State Holocaust Survivors
01:08 PM16 Insurance Relief Act. It was signed into law by
01:08 PM17 Governor Locke in May. Today's hearing is authorized by
01:08 PM18 that Act, the Act which seeks the resolution of insurance
01:08 PM19 claims that remain unpaid after over a half a century.

01:08 PM20 In brief, the law requires prompt disclosure of
01:08 PM21 the names of policy holders and prompt payment of claims.
01:08 PM22 The measure of success of this whole complex process, and
01:08 PM23 of course it is a complex process, and there has been
01:08 PM24 literally international involvement, involving the United
01:08 PM25 States government, state regulators and governors, but the

01:08 PM 1 measure of success of this entire process is rather
01:08 PM 2 simple. Are the claims of the survivors who are policy
01:08 PM 3 holders, like you and like me, being paid? That really is
01:08 PM 4 the ultimate and basic question. And for those survivors
01:09 PM 5 or heirs who do not know that they have a claim, are the
01:09 PM 6 lists of policy holders being published by the newspapers
01:09 PM 7 or being placed on the internet so they can find out if,
01:09 PM 8 indeed, their family does have a claim?

01:09 PM 9 Those who are affected by this issue that we're
01:09 PM10 talking about here today are elderly, and never before has
01:09 PM11 there been a situation where the statement "justice
01:09 PM12 delayed, is justice denied" been more true.

01:09 PM13 The relationship between the insured and the
01:09 PM14 insurer is all about trust. The insured gives a company
01:09 PM15 money year after year, expecting the terms of a policy to
01:09 PM16 be carried out, even if the policy holder is deceased, and
01:09 PM17 time and distance cannot erase that obligation.

01:09 PM18 So as this Act provides, as the International
01:10 PM19 Commission provides, as so many of the survivors in the
01:10 PM20 State of Washington have stated, it is time for the
01:10 PM21 claimants to receive what is rightfully theirs.

01:10 PM22 I have called this hearing to take testimony to
01:10 PM23 consider if the insurers that have participated in the
01:10 PM24 International Commission on Holocaust Era Insurance Claims
01:10 PM25 should be exempted from the requirements of our state law.

01:10 PM 1 That law allows me now to suspend the insurers' licenses
01:10 PM 2 to operate in our state if they do not pay valid claims.

01:10 PM 3 However, the Act also provides the opportunity for
01:10 PM 4 the Insurance Commissioner to provide a safe harbor or an
01:10 PM 5 exemption for the companies that are working in good
01:10 PM 6 faith. The deadline -- and let me just say this by way of
01:10 PM 7 explanation. The companies have been in the status of
01:10 PM 8 safe harbor under the Act, because for those who have been
01:10 PM 9 a part of the International Commission, the deadline for
01:11 PM10 that safe harbor was January 1, 2000. Today the five
01:11 PM11 companies represented here are subject to the suspension,
01:11 PM12 unless I extend the deadline.

01:11 PM13 So that is the purpose of our hearing today, for
01:11 PM14 me to take information and facts from the companies, to
01:11 PM15 hear how they have met their obligations, and then to make
01:11 PM16 a decision about whether or not safe harbor should be
01:11 PM17 extended.

01:11 PM18 Safe harbor depends on whether a company
01:11 PM19 demonstrates good faith and is carrying out a claims
01:11 PM20 process in a timely manner. Central to my decision will
01:11 PM21 be how a company has processed benefits to Holocaust
22 survivors and their heirs.

01:11 PM23 As a state regulator I am obligated to make sure
01:11 PM24 the insurance companies licensed to do business in the
01:11 PM25 State of Washington and their parent companies or

01:11 PM 1 affiliates fulfill their obligations to policy holders,
01:11 PM 2 beneficiaries, or rightful heirs.

01:12 PM 3 Our state law was based on the expectation that by
01:12 PM 4 the end of 1999, claims payment and publication of names
01:12 PM 5 of policy holders would be underway under the auspices of
01:12 PM 6 the International Commission.

01:12 PM 7 Initial Fast-Track payments by the Commission to
01:12 PM 8 those with well documented claims has gone slowly over the
01:12 PM 9 past year, with offers, as we understand it, only made on
01:12 PM10 a small percentage of the over 900 claims submitted since
01:12 PM11 last summer.

01:12 PM12 By way of explanation, I'm going to repeat that.
01:12 PM13 The Fast-Track process was set up to handle those that
01:12 PM14 were the most well documented claims. That Fast-Track
01:12 PM15 process has now 900 claims submitted to it, but only a
01:12 PM16 very few, I believe 30 have been paid out of that 900, and
01:12 PM17 these are some of the best documented policies. So I want
01:12 PM18 to ask the companies about that issue today.

01:12 PM19 Second of all, and very importantly, Washington's
01:13 PM20 law requires publication of the policy holder names, as
01:13 PM21 does California's law, and we believe that is the way in
01:13 PM22 which many survivors or heirs of victims or families will
01:13 PM23 find out whether or not their family has a claim. And I
01:13 PM24 want to ask the companies about that issue today, as well.

01:13 PM25 It also must be determined whether the

01:13 PM 1 requirements insurance companies have established for
01:13 PM 2 survivors and heirs to make a claim are, in fact, possible
01:13 PM 3 for them to meet. I want to ask the companies today about
01:13 PM 4 some of the qualifying requirements that are being
01:13 PM 5 discussed, because we want to make sure that survivors are
01:13 PM 6 not shut out from claims because the requirements to make
01:13 PM 7 a claim are too high.

01:13 PM 8 So these are the issues that we're going to talk
01:13 PM 9 about today. You know that time is of the essence in this
01:13 PM10 issue. Survivors are dying in the world at a rate of ten
01:13 PM11 per week. It has been over 60 years since many of these
01:14 PM12 claims have been made and over 60 years since they have
01:14 PM13 been paid. There is no time like the present to get these
01:14 PM14 claims paid fairly and fully, and that really is what the
01:14 PM15 law envisions.

01:14 PM16 So let me say, once again, with all complexity and
01:14 PM17 the issues that we're going to talk about today, the
01:14 PM18 measure of success is whether or not the survivors have
01:14 PM19 been paid for the policies. Because every one of us in
01:14 PM20 this room has insurance, and every one of us is a policy
01:14 PM21 holder, and there is a trust relationship between an
01:14 PM22 insured and an insurer.

01:14 PM23 Now, let me just say before we move forward that I
01:14 PM24 have received two letters today. We sent a letter to the
01:14 PM25 former Secretary of State, Laurence Eagleburger, who is

01:14 PM 1 the Chair of the International Commission, informing him
01:15 PM 2 that under the law we would have this hearing, and that we
01:15 PM 3 would be examining the issue of whether a safe harbor
01:15 PM 4 deadline should be extended to the companies. Chairman
01:15 PM 5 Eagleburger sent back a brief letter, and I have it here,
01:15 PM 6 in which he said -- a very brief letter and said that he
01:15 PM 7 understood that it was our obligation to look at the safe
01:15 PM 8 harbor issue. He said I would like to offer my considered
01:15 PM 9 opinion that as of this time each of the many companies
01:15 PM10 has been participating in good faith. Furthermore, Deputy
01:15 PM11 Secretary of the Treasury, Stewart Eizenstat, who has been
01:15 PM12 involved in a great deal of these negotiations and was the
01:15 PM13 lead person in the State Department on the issue, we sent
01:15 PM14 him a letter, as well. He sent us a letter back talking
01:15 PM15 about, in particular, the negotiations going on with
01:15 PM16 regard to the German claims of slave labor and forced
01:16 PM17 labor and participation of the companies, which he opined
01:16 PM18 were in good faith, and he also mentioned and recognized
01:16 PM19 the importance of the issue of names, and indicated that
01:16 PM20 Allianz has recently sent Yad Vashem 13,000 names for
01:16 PM21 purposes of matching. We will ask Allianz about that in
01:16 PM22 just a moment.

01:16 PM23 I have also received a letter from some of the
01:16 PM24 sponsors of the legislation, Washington State Senator Adam
01:16 PM25 Klein, asking that the law be carried out quickly and the

01:16 PM 1 survivors paid quickly, and Senator Klein talked about the
01:16 PM 2 intent of the law. And similarly I have received another
01:16 PM 3 letter from Representative Renee Radcliffe, who was also a
01:17 PM 4 prime sponsor of the legislation, as well, and it
01:17 PM 5 similarly talks about the intent of the law to getting the
01:17 PM 6 claims paid as quickly and as expeditiously as possible.

01:17 PM 7 We will, as part of my deliberation process,
01:17 PM 8 consider the comments of Secretary of State Eagleburger
01:17 PM 9 and the comments of Deputy Treasurer Secretary Eizenstat,
01:17 PM10 the letters from Senator Klein and Representative
01:17 PM11 Radcliffe, and also, along with that, the testimony of the
01:17 PM12 companies in answer to questions that we have asked them
01:17 PM13 to respond to, and we will take all that information into
01:17 PM14 account in our deliberations about whether to extend the
15 safe harbor.

01:17 PM16 So with that, I think -- I hope I have adequately
01:17 PM17 explained the process here today. We are going to --
01:17 PM18 we're going to try to do in about three or four hours what
01:18 PM19 apparently the State of California did over two days. So
01:18 PM20 I'm going to try to be succinct, and I'm going to ask the
01:18 PM21 companies and everybody to who testifies to try to be
22 succinct.

01:18 PM23 So let me go through what we're going to do.
01:18 PM24 We're going to start with the testimony of the companies.
01:18 PM25 And when I say testimonies, we have asked them to submit

01:18 PM 1 any testimony in written form so that we won't take up the
01:18 PM 2 time with prepared statements. We want them to be
01:18 PM 3 available to respond to questions immediately so that we
01:18 PM 4 can get quickly to the point.

01:18 PM 5 Allianz, Winterthur, Generali, Zurich, and Axa, in
01:18 PM 6 that order, are to testify, and then I want to introduce a
01:18 PM 7 special guest, Bobby Brown, who has come here from the
01:19 PM 8 State of Israel, who has been part of the delegation
01:19 PM 9 representing the State of Israel on the International
01:19 PM10 Commission, and he was in the country for meetings with
01:19 PM11 regard to this issue, and he has come to Seattle today to
01:19 PM12 talk about the experience of the Commission and highlight
01:19 PM13 some of the issues. So we will ask Mr. Brown to talk
01:19 PM14 possibly after the companies, but if it starts to go on
01:19 PM15 too long, then I think we will interrupt and give him a
01:19 PM16 chance to make his statement.

01:19 PM17 And then finally, I have asked the survivors who
01:19 PM18 want to testify, who have signed up, and I think we have
01:19 PM19 maybe three or four who have signed up to testify, and I
01:19 PM20 wanted to -- and this was a little bit unusual, and I hope
01:19 PM21 the survivors will forgive me for putting them last,
01:19 PM22 because I think it's important for me -- the purposes of
01:19 PM23 this hearing was to ask questions of the companies, and so
01:19 PM24 I have -- I'm going to go with the public testimony of the
01:19 PM25 survivors last. Because our goal really is to get the

01:20 PM 1 information on the table so we can make a decision about
01:20 PM 2 whether to extend the safe harbor.

01:20 PM 3 So I guess I will expect representatives from
01:20 PM 4 Allianz to come forward. Is that Peter Lefkin?
01:20 PM 5 MR. PETER LEFKIN: Yes.

6 COMMISSIONER SENN: Peter, why don't you come and sit
7 down.

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Testimony Of Allianz Representatives

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01:20 PM11 MR. PETER LEFKIN: Commissioner Senn, Deputy Commissioner
01:20 PM12 Coopersmith, we have come to work very closely over the
01:20 PM13 last two years, and I probably see more of Mr. Kadden than
01:20 PM14 any member of my family or my most intimate friends. It's
01:20 PM15 a pleasure to be here today.

01:20 PM16 I have Mr. Sig Borgersen, counsel to Allianz in
01:20 PM17 this matter. As you know, I am Peter Lefkin, Senior
01:20 PM18 Vice-President of Fireman's Fund Insurance Companies, and
01:20 PM19 for the last two years I have been serving as counsel to
01:20 PM20 Allianz on this matter, and I am here today in my capacity
01:20 PM21 as counsel to Allianz AGA, not for Fireman's Fund, and I
01:21 PM22 very much appreciate the opportunity to be here. Thank
01:21 PM23 you.

01:21 PM24 COMMISSIONER SENN: Would you spell your name for us?

01:21 PM25 MR. SIGURD BORGENSEN: For the record, I did drop a card

01:21 PM 1 at the front desk. It's Sigurd, S-i-g-u-r-d, Borgersen,
01:21 PM 2 B-o-r-g-e-r-s-e-n. I am with the firm Schwabe, Williamson
3 & Wyatt.

01:21 PM 4 I did note in your opening statement that the
01:21 PM 5 Commissioner is relying on the clock. If you are relying
01:21 PM 6 on that clock, I think we're all in trouble.

01:21 PM 7 COMMISSIONER SENN: Oh, it says a quarter of 12.

01:21 PM 8 MR. SIGURD BORGERSEN: Before the testimony, if I might,
01:21 PM 9 Commissioner, I have a letter I prepared on a procedural
01:21 PM10 matter. I don't want to take up the time of the
01:21 PM11 Commissioner at this time, but I would hand it in as part
01:21 PM12 of the record.

01:21 PM13 COMMISSIONER SENN: Actually, why don't you bring it up
01:21 PM14 here.

01:22 PM15 Why don't we start -- well, let me just say just
01:22 PM16 by way of background, Allianz Insurance is the parent
01:22 PM17 company located in Germany, and you have 12 subsidiaries
01:22 PM18 doing business in the State of Washington?

01:22 PM19 MR. PETER LEFKIN: I believe so, yes, Commissioner.

01:22 PM20 COMMISSIONER SENN: And one of those is Fireman's Fund?

01:22 PM21 MR. PETER LEFKIN: Right.

01:22 PM22 DEPUTY COMMISSIONER COOPERSMITH: I would like to ask the
01:22 PM23 witnesses to speak into the mike.

01:22 PM24 MR. PETER LEFKIN: We have a long-standing presence of
01:22 PM25 Fireman's Fund in the State of Washington. We are a West

01:22 PM 1 Coast company, proudly hailing from San Francisco, and we
01:22 PM 2 have been for 130 years. We employ about 250 people at
3 the various Fireman's Fund operations in the State of
01:22 PM 4 Washington, both in Seattle and Spokane.

01:22 PM 5 COMMISSIONER SENN: When did you acquire Fireman's Fund?

01:22 PM 6 MR. PETER LEFKIN: Well, when did Allianz acquire
01:22 PM 7 Fireman's Fund?

01:22 PM 8 COMMISSIONER SENN: Yes.

01:22 PM 9 MR. PETER LEFKIN: It acquired Fireman's Fund in 1991,
01:22 PM10 effectively taking control of the company on January 1,
01:23 PM11 1991.

01:23 PM12 COMMISSIONER SENN: Let me ask you, first of all, I want
01:23 PM13 to start with the Fast-Track process, and this is a
01:23 PM14 process that has been set up by the International
01:23 PM15 Commission to, as I mentioned, handle the best documented
01:23 PM16 claims, and they have been submitted from a number of
01:23 PM17 states and from Israel and actually from all over the
01:23 PM18 world.

01:23 PM19 How many Holocaust claims has Allianz handled
01:23 PM20 through the ICHEIC Fast-Track process?

01:23 PM21 MR. PETER LEFKIN: When they are broken down, and if I
01:23 PM22 could just aggregate them, there are three separate
01:23 PM23 companies at Allianz that have received claims. The most
01:23 PM24 prominent, and this company has gained quite a bit of
25 attention over the recent years, is RAS, Reunione

1 Adriatica DiSecurita. RAS is an Italian affiliate of
2 Allianz. Allianz owns 51 percent of this company,
3 purchasing them in 1986.

01:24 PM 4 RAS had the misfortune of having a significant
01:24 PM 5 portion, all of its Eastern European operations
6 nationalized following World War II, with both the
01:24 PM 7 portfolios and records transferred to the Communist
8 successor owned companies.

01:24 PM 9 RAS has been very, very active in processing
01:24 PM10 Fast-Track claims. They have received about 196
01:24 PM11 Fast-Track inquiries, involving some 298 policies. Of
01:24 PM12 those 196 inquiries, 170 have gone through almost an entire
01:24 PM13 review. 128 were processed, but they could not determine
01:24 PM14 whether or not it actually involved a RAS policy or
01:24 PM15 whether or not it involved a policy of another company.
01:24 PM16 It was inconclusive. However, 42 of those policies were
01:24 PM17 accepted, and the policy holder or their beneficiaries
01:24 PM18 were given offers of settlement.

01:24 PM19 Of these 26 were received by people in the Czech
01:25 PM20 Republic, three in Poland, 11 in Hungary, one in
01:25 PM21 Yugoslavia, and for a total value of about \$443,000. The
01:25 PM22 rough payment is coming out to about \$10,000 per policy.
01:25 PM23 COMMISSIONER SENN: Let's back up a second. So 42
01:25 PM24 policies of the 179 -- of the 196 received, 42 policies
01:25 PM25 were accepted as valid by Allianz?

01:25 PM 1 MR. PETER LEFKIN: That's correct.

01:25 PM 2 COMMISSIONER SENN: And when I say valid, as unpaid or --

01:25 PM 3 MR. PETER LEFKIN: 42 accepted as policies which the

01:25 PM 4 policy was in existence. It could be determined under the

01:25 PM 5 very liberal standards of the International Commission

01:25 PM 6 that there is probable reason to believe that a policy did

01:25 PM 7 exist and was possibly unclaimed, and therefore gave rise

01:25 PM 8 to compensability under the standard promulgated by the

01:25 PM 9 International Commission.

01:25 PM10 These were all policies sort of paid on -- offers

11 were made on a humanitarian basis, not a legal basis.

01:26 PM12 COMMISSIONER SENN: How many offers were made?

13 MR. PETER LEFKIN: Forty-two.

01:26 PM14 COMMISSIONER SENN: And how many offers were accepted?

01:26 PM15 MR. PETER LEFKIN: Thus far, my -- let me just go through

01:26 PM16 my numbers here, Commissioner Senn. I believe it's still

01:26 PM17 early in the process, and 12 offers have been accepted so

01:26 PM18 far, and the others, of course, are still pending.

01:26 PM19 Since this is a relatively fast proceeding, and

01:26 PM20 since many of these letters did not get out until the end

01:26 PM21 of December, it's not surprising that we have not had

01:26 PM22 anything more conclusive.

01:26 PM23 DEPUTY COMMISSIONER COOPERSMITH: Are these numbers for

24 the RAS subsidiaries only?

01:26 PM25 MR. PETER LEFKIN: This is for RAS only. There are -- of

01:26 PM 1 course, Allianz is also subject -- Allianz Lebens
01:26 PM 2 is also subject to the Fast-Track process, as well.
01:26 PM 3 COMMISSIONER SENN: Let me just ask you very quickly --
01:26 PM 4 MR. PETER LEFKIN: Let me just -- if I can make this
01:26 PM 5 clear. Only those 42 policies have been identified as RAS
01:26 PM 6 policies. The remainder of those policies have not
01:27 PM 7 provided the documentation necessary to give rise to
01:27 PM 8 eligibility for payment. We simply don't know or we have
01:27 PM 9 reason to believe they are not RAS policies.
01:27 PM10 COMMISSIONER SENN: So 42, and were any of those rejected
01:27 PM11 based on the legal interpretation?
01:27 PM12 MR. PETER LEFKIN: No, not the legal interpretation. Part
01:27 PM13 of it was incomplete policy records and files. It's a
01:27 PM14 very difficult task, because we are dealing with a
01:27 PM15 situation where RAS itself does not have access to all of
01:27 PM16 its own policy records. It almost has none of its policy
01:27 PM17 records and files. They are really relying upon, frankly,
01:27 PM18 in this situation, the ability of a policy holder or their
01:27 PM19 beneficiary to bring forth documentation. Because we have
01:27 PM20 seen -- and you have seen this yourself -- Eastern
01:27 PM21 European governments which took over the portfolios and
01:27 PM22 the files after the war have not exactly been liberal in
01:27 PM23 providing them to any of us.
01:27 PM24 DEPUTY COMMISSIONER COOPERSMITH: So what standards are you
01:28 PM25 using to evaluate the claims?

01:28 PM 1 MR. PETER LEFKIN: We're using the standard pretty much
2 promulgated by the International Commission, which are
3 very, very liberal standards. You know, is there
01:28 PM 4 documentation of payment, is there a payment receipt, is
01:28 PM 5 there documentation of that actual physical policy in
01:28 PM 6 hand, is there good corroborative evidence indicating that
01:28 PM 7 a policy may have existed. And it is -- it certainly
01:28 PM 8 would not be the standard we apply to our regular business
01:28 PM 9 practices, but we understand this is a very unusual
01:28 PM10 situation, involving a company which wrote business 55
01:28 PM11 years ago, in which all the policies, theoretically, were
01:28 PM12 assumed by the various successor governments.

01:28 PM13 In many instances, frankly, a lot of those
01:28 PM14 policies -- we don't know this, but we are assuming that
01:28 PM15 in certain countries, most notably Poland, a good number
01:28 PM16 of policy holders were, indeed, paid after the war. We
01:28 PM17 have evidence of that, but we do not actually have the
01:28 PM18 physical evidence in hand. We can't ascertain that
01:28 PM19 ourselves.

01:28 PM20 DEPUTY COMMISSIONER COOPERSMITH: You have the standards
01:28 PM21 that you used in writing, do you not?

01:29 PM22 MR. PETER LEFKIN: Actually, I do. We're using the
01:29 PM23 standards that have been promulgated by Mr. Eagleburger
01:29 PM24 and the International Commission. I don't have them here
01:29 PM25 with me, but I am certain that the International

01:29 PM 1 Commission staff will be happy to give them to you. If

01:29 PM 2 not, I will be happy to.

01:29 PM 3 DEPUTY COMMISSIONER COOPERSMITH: I think what we would

01:29 PM 4 like to see are the standards that you used that you gave

01:29 PM 5 to your own claims examiners. You presumably did that, is

6 that correct?

01:29 PM 7 MR. PETER LEFKIN: Yes, we did. We gave them a matrix

01:29 PM 8 that was provided by the International Commission that has

9 been agreed upon by the International Commission, which is

01:29 PM10 a tremendous amount of work. And I think we all are here

01:29 PM11 to praise Mr. Eagleburger, who, I know, Ms. Senn, you

01:29 PM12 worked very closely with and have the greatest amount of

01:29 PM13 respect, as do we.

01:29 PM14 This matrix served as sort of a guidepost by which

01:29 PM15 we evaluate all of our policies.

01:29 PM16 COMMISSIONER SENN: Go ahead. What we've got are 12

01:29 PM17 offers that have been accepted, 42 offers made for RAS.

01:29 PM18 Next company?

01:29 PM19 MR. PETER LEFKIN: There Allianz Lebens and Allianz

01:30 PM20 Vereinte, and let me through and I'll break them down.

21 I'll do Lebens first.

01:30 PM22 There have been 68 inquiries, 55 of those are from

01:30 PM23 the United States, two are from Germany, five are from

01:30 PM24 Israel, and five are from other countries. These involve

01:30 PM25 about 109 policies -- potential policies.

01:30 PM 1 There has been an examination, and no offers have
01:30 PM 2 thus far been made. Fourteen of these are still pending.
01:30 PM 3 But the rest we, more or less, have determined that the
01:30 PM 4 policy either did not belong to Allianz or had been paid
01:30 PM 5 either directly by Allianz previously or by the German
01:30 PM 6 restitution authorities.
01:30 PM 7 COMMISSIONER SENN: Let's back up a second. They have
01:30 PM 8 been paid either by Allianz directly?
01:30 PM 9 MR. PETER LEFKIN: Right -- or not an Allianz -- there are
01:30 PM10 three categories, Ms. Senn. I mean, we get inquiries, and
01:31 PM11 this is complicated. We have a number of people who have
01:31 PM12 sent in inquiries. Allianz, of course, has gained quite a
01:31 PM13 bit of attention on this issue, a very large, prominent
01:31 PM14 company in Europe. A number of people will submit a
01:31 PM15 policy, even if it is not an Allianz policy. There is
 16 some confusion, given the language differences and the
01:31 PM17 nature of these policies.
01:31 PM18 A number of these policies are rejected, frankly,
01:31 PM19 on the basis of the fact that it does not belong to
01:31 PM20 Allianz. It belonged to another company. Others, of
01:31 PM21 course, are rejected on the basis that they were paid
01:31 PM22 before previously by Allianz, and the policy holder was
01:31 PM23 more likely the beneficiary, was not aware of the fact
01:31 PM24 that payment was made to some other family member, and the
01:31 PM25 third category was that the German government made

01:31 PM 1 restitution payments, either to the policy holder or to
01:31 PM 2 the beneficiary. Because we certainly are -- we're in a
01:31 PM 3 situation where we want to pay every valid claim. We are
01:31 PM 4 operating totally in the spirit of the Washington State
01:31 PM 5 law, but the criteria for -- and I know this is very
01:31 PM 6 important to you -- the claims have got to be valid. They
01:32 PM 7 have got to give rise -- we certainly don't want to be in
01:32 PM 8 a situation where we are paying policies that are not part
01:32 PM 9 of Allianz or have been paid previously by the company or
01:32 PM10 by the German government.
01:32 PM11 COMMISSIONER SENN: So how many have you paid?
01:32 PM12 MR. PETER LEFKIN: This one -- there -- actually, none of
01:32 PM13 these policies have been paid. We have been -- frankly
01:32 PM14 part of the reason -- if I can give an explanation for
01:32 PM15 this -- we have 14 that are still pending, and 13 we've
01:32 PM16 asked for additional information, because we just simply
01:32 PM17 need that information to try to determine whether or not
01:32 PM18 this is indeed our policy and the whole host of other
01:32 PM19 reasons that I talked about. But there is a reason
01:32 PM20 frankly why in Eastern Europe the Fast-Track process has
01:32 PM21 probably shown greater promise than perhaps in Western
01:32 PM22 Europe, is that we have been open for business in Allianz
01:32 PM23 with our hotline very aggressively for the last three
01:32 PM24 years, and so frankly we're in a situation where we --
01:32 PM25 COMMISSIONER SENN: Mr. Lefkin, when you appeared before

01:32 PM 1 us two years ago or a year-and-a-half ago your hotline had
01:33 PM 2 been open for close to a year and you hadn't paid any
01:33 PM 3 claims.
01:33 PM 4 MR. PETER LEFKIN: That is not -- well, that might be the
01:33 PM 5 case then. We certainly have -- I think some 18 claims
01:33 PM 6 have been paid.
01:33 PM 7 COMMISSIONER SENN: 18?
01:33 PM 8 MR. PETER LEFKIN: Yes.
9 COMMISSIONER SENN: 18, okay.
01:33 PM10 MR. PETER LEFKIN: As I said, the most important thing,
01:33 PM11 Ms. Senn, and, as you know, we are committed to paying all
01:33 PM12 valid claims. We've received 29 -- I think some 1,438
01:33 PM13 inquires over our hotline.
01:33 PM14 COMMISSIONER SENN: 1,438 inquiries?
01:33 PM15 MR. PETER LEFKIN: 1,438 inquiries on our hotline,
01:33 PM16 involving some 3,053 potential policies. And, I mean, the
01:33 PM17 record frankly -- and I think probably sometimes
01:33 PM18 expectations may have been increased here, because there
01:33 PM19 is a supposition that Germany, in particular, has been
01:33 PM20 very, very assiduous, as they should be, in making certain
01:33 PM21 over the last 55 years these claims have been paid. This
01:33 PM22 is not an issue. And I think there is probably some
01:33 PM23 impression in the United States that nothing has been done
01:33 PM24 in Western Europe over the last 55 years, and that's not
01:33 PM25 the case. They have been very, very aggressive, both the

01:34 PM 1 insurance companies themselves, and the German restitution
2 authorities.

01:34 PM 3 DEPUTY COMMISSIONER COOPERSMITH: Mr. Lefkin, how many
01:34 PM 4 claims submitted to you did your company deny on the basis
01:34 PM 5 that the German government had supposedly paid the
01:34 PM 6 claimants in the form of restitution?

01:34 PM 7 MR. PETER LEFKIN: I don't know. The numbers that I
01:34 PM 8 received from Stuttgart did not break it down on that
9 basis.

01:34 PM10 DEPUTY COMMISSIONER COOPERSMITH: But you will provide us
01:34 PM11 with that?

01:34 PM12 MR. PETER LEFKIN: I will try to provide you with that
01:34 PM13 number as soon as I have it.

01:34 PM14 COMMISSIONER SENN: We would like a breakdown of the 109
01:34 PM15 potential claims, with your 14 pending for Allianz Lebens,
01:34 PM16 exactly what the reasons were for that the 109 were
01:34 PM17 denied.

01:34 PM18 MR. PETER LEFKIN: Okay. There is also Vereinte and you
01:34 PM19 will probably want to discuss it that, as well.

01:34 PM20 COMMISSIONER SENN: Yes.

21 MR. PETER LEFKIN: Vereinte -- Allianz Vereinte we have
01:34 PM22 received -- there is approximately nine claims -- or nine
01:34 PM23 inquiries, I should say, involving 53 potential policies,
01:35 PM24 and then in 49 instances there is just insufficient
01:35 PM25 evidence that exists to determine whether or not a policy

01:35 PM 1 existed. We have reason to believe it belonged to another
01:35 PM 2 company. Alternatively, three had already been paid
01:35 PM 3 directly by the company, and we have one that is still
01:35 PM 4 pending.

01:35 PM 5 As I said, the success story of the Fast-Track
01:35 PM 6 process, Ms. Senn, -- and I know you appreciate the work
01:35 PM 7 of Mr. Eagleburger -- is that it really can result in
01:35 PM 8 expedition of payments in Eastern Europe, and that's --
01:35 PM 9 COMMISSIONER SENN: You say that it's a success story.
01:35 PM10 We've got 900, as I understand it, well documented claims
01:35 PM11 in the Fast-Track process, and less than 40 of them have
01:35 PM12 been paid. So why is that a success story?

01:35 PM13 MR. PETER LEFKIN: Let me answer you this. One of the
01:35 PM14 reasons you have 900 claims via five members in the
01:35 PM15 International Commission who comprise roughly 25 percent
01:35 PM16 of the European insurance marketplace, and many of those
01:35 PM17 claims, frankly, are coming from Eastern Europe, where the
01:36 PM18 companies are no longer in existence. They are owned by
01:36 PM19 the successor to the Communist government insurance
01:36 PM20 companies and so forth.

01:36 PM21 But it certainly has been a success, vis-a-vis,
01:36 PM22 the claims belonging to RAS, Reunione Adriatica, which was
01:36 PM23 the Allianz affiliate in Italy. But you certainly would
01:36 PM24 not expect any of the five companies to pay claims on
01:36 PM25 companies which they never had any interest in, and I

01:36 PM 1 think, you know, we can't be held --

01:36 PM 2 COMMISSIONER SENN: 30 or 40 claims is a success out of

01:36 PM 3 900 well documented claims?

01:36 PM 4 MR. PETER LEFKIN: I think if you were one of the 40

01:36 PM 5 claimants it is, yes. I think -- I mean, I frankly -- I

01:36 PM 6 mean, I know your attention to fairness and Washington law

01:36 PM 7 requires that valid claims be paid. You certain are not

8 here suggesting that Allianz pay claims which never

9 belonged to it or any other of its subsidiaries.

01:36 PM10 COMMISSIONER SENN: Absolutely not. But you are aware

01:36 PM11 that the position of the commissioners, and at the

01:36 PM12 Commissioner Task Force Meeting it was conveyed to

01:37 PM13 Chairman Eagleburger that any claims that the companies

01:37 PM14 argue are subject to nationalization -- and that is

01:37 PM15 something, as you say in this hearing, are valid claims.

01:37 PM16 Because it seems very logical, Mr. Lefkin, that if

01:37 PM17 somebody died in 1942, that's when their claim arose, and

01:37 PM18 whether the company was nationalized in 1946, is

01:37 PM19 irrelevant to the fact that the claim arose in 1942.

01:37 PM20 MR. PETER LEFKIN: I would encourage you, given the rules

01:37 PM21 of the International Commission, which are extremely

01:37 PM22 liberal, they are made on a humanitarian basis, due to the

23 unique circumstance of nationalization.

01:37 PM24 But I also would suggest, Ms. Senn, that the rules

01:37 PM25 in the International Commission apply to the companies to

01:37 PM 1 which the companies formally had owned. Compensability
01:37 PM 2 compensation from Allianz or the other members of the
01:37 PM 3 International Committee only applies to its old
01:37 PM 4 affiliates. Not to companies which it never had any
01:37 PM 5 interest in.

01:37 PM 6 And given the fact that we have a relatively small
01:37 PM 7 universe of the European insurance industry represented in
01:37 PM 8 the International Commission, I think you've got to
01:38 PM 9 applaud Mr. Eagleburger. I think he has done this country
10 and the insurance --

01:38 PM11 COMMISSIONER SENN: Well, Mr. Lefkin, we are not here to
01:38 PM12 talk about the fine character of Mr. Eagleburger, while I
01:38 PM13 agree with you.

01:38 PM14 We are here to see whether Washington law is being
01:38 PM15 complied with and whether or not Allianz has been
01:38 PM16 operating in good faith and as a part of that
01:38 PM17 International Commission, to satisfy requirements of the
01:38 PM18 Washington law. So let's go on.

01:38 PM19 MR. PETER LEFKIN: I want to say, Ms. Senn, I believe
01:38 PM20 we're in a situation, frankly, where obviously I believe
01:38 PM21 we are working very assiduously. This is the sixth time I
01:38 PM22 have appeared or Allianz has appeared before you in one
01:38 PM23 capacity or another.

01:38 PM24 The fact of the matter is that Mr. Bobby Brown,
01:38 PM25 Mr. Eagleburger and Mr. Eizenstat are people impartial in

01:38 PM 1 this process, and all will attest to the good faith of
01:38 PM 2 Allianz and the other members of the International
01:38 PM 3 Commission. We are here today because we want to work
01:38 PM 4 with you, and our record is good.

01:38 PM 5 COMMISSIONER SENN: I appreciate that you are here,
01:38 PM 6 MR. PETER LEFKIN. So let's keep moving on, because we
01:39 PM 7 have other companies to hear from.

01:39 PM 8 Let me just ask you this question, and I want to
01:39 PM 9 be very clear. In terms of the Fast-Track -- and then
01:39 PM10 we're going to move to the other issues -- in terms of
01:39 PM11 Fast-Track, these claims that were supposed to be based on
01:39 PM12 a high agree of documentation, and I have seen Fast-Track
01:39 PM13 claims, they are well documented claims, but it sounds as
01:39 PM14 if from these numbers that Allianz has poorly documented
01:39 PM15 claims in Fast-Track.

01:39 PM16 MR. PETER LEFKIN: I would disagree. I mean, I think that
01:39 PM17 looking particularly at Germany, the claims are fairly
18 well documented, but they are documented with either
01:39 PM19 another company or have already been paid by the company,
20 Allianz.

01:39 PM21 You can document the fact that the policy did
01:39 PM22 exist. You might not be able to document the fact that
01:39 PM23 the policy -- the person submitting the claim may not be
01:39 PM24 aware of the fact that it had previously been paid.
01:39 PM25 Allianz is in a situation to ascertain through exhaustive

01:39 PM 1 research of the status of that policy.

01:39 PM 2 In RAS, the example is you have documentation that
01:39 PM 3 is provided, and where there has been documentation,
01:40 PM 4 payment has been made.

01:40 PM 5 DEPUTY COMMISSIONER COOPERSMITH: So you will be willing
01:40 PM 6 to submit to us the documentation that was submitted to
01:40 PM 7 you and the determination that you made based on that
01:40 PM 8 documentation?

01:40 PM 9 MR. PETER LEFKIN: I would have to go back and rely upon
01:40 PM10 counsel, frankly because we are operating under the
01:40 PM11 auspices of the International Commission, which is
01:40 PM12 operating in London, and probably has a certain degree of
01:40 PM13 protective legal status. I am not certain as to whether
01:40 PM14 or not we can provide that. I can provide you with
01:40 PM15 assurances, and certainly would be happy to have you come
01:40 PM16 out to Germany to meet with us to insure you that we are
01:40 PM17 adhering to the matrix provided that has been to us by the
01:40 PM18 International Commission. There has been a been strong
01:40 PM19 agreement on that.

01:40 PM20 DEPUTY COMMISSIONER COOPERSMITH: Washington law has a
01:40 PM21 provision, as you are well aware, of confidentiality that
01:40 PM22 you can apply in reviewing documentation of individual
01:40 PM23 policy holders and claimants. There is no way that
01:41 PM24 Commissioner Senn can make an evaluation of whether
01:41 PM25 Allianz is, in fact, proceeding in good faith unless she

01:41 PM 1 can review the documentation and see what steps you have
01:41 PM 2 actually taken on particular cases.
01:41 PM 3 MR. PETER LEFKIN: I would agree with you, and I
01:41 PM 4 understand your situation. However, Allianz -- Washington
01:41 PM 5 State or Allianz are sovereign nations on their own. A
01:41 PM 6 number of the countries in which Allianz does business has
01:41 PM 7 very, very strict privacy laws, and they will not allow us
01:41 PM 8 to furnish this information to Ms. Senn. And I would
01:41 PM 9 frankly suggest, you know, talking, in cooperation with
01:41 PM10 the European regulators, who unfortunately are not here
01:41 PM11 today, to try to ascertain what type of information can be
01:41 PM12 provided.

01:41 PM13 However, you should be assured that there is an
01:41 PM14 auditing -- a very strong auditing procedure in place in
01:41 PM15 the International Commission to insure compliance. That
01:41 PM16 is part of the cooperative agreement of the International
01:41 PM17 Commission. And I think if you spoke to Mr. Eagleburger
01:41 PM18 or Mr. Sher or Mr. Fitchew, who are all principals in
01:42 PM19 that activity, you will find that they should provide
01:42 PM20 100 percent assurances that Allianz is complying with
01:42 PM21 every agreement conveyed in the International Commission.
01:42 PM22 DEPUTY COMMISSIONER COOPERSMITH: Well, M. Peter Lefkin,
01:42 PM23 if you are confident that your company has proceeded in
01:42 PM24 good faith and has a record of which you should be proud,
01:42 PM25 then you should be confident in turning over the

01:42 PM 1 documentation to Commissioner Senn, especially in light of
01:42 PM 2 the confidentiality provision of the Washington law.
01:42 PM 3 MR. PETER LEFKIN: My strongest interest and yours is
01:42 PM 4 paying claims, is going forward, providing humanitarian
01:42 PM 5 justice. I don't want to sit here and talk about how this
6 European confidentiality requirements, vis-a-vis,
01:42 PM 7 Washington State. This is not my area of competence.
01:42 PM 8 I am here today to tell you that Allianz is doing
01:42 PM 9 everything possible to provide humanitarian justice to
10 victims of the Holocaust.
01:42 PM11 COMMISSIONER SENN: Let's move on. I know that you came
01:42 PM12 to visit us in 1998, and we talked about an Arthur
01:42 PM13 Anderson study, which you actually promised us a copy of,
01:42 PM14 to show the examination of your files that Allianz has
01:43 PM15 undertaken. We haven't received that study to date,
01:43 PM16 Mr. Lefkin.
01:43 PM17 MR. PETER LEFKIN: Well, you did participate, Ms. Senn, in
01:43 PM18 -- several things. One, is that study is sort of being
01:43 PM19 brought to the attention of the International Commission
01:43 PM20 as part of the multifaceted auditing process begun by
21 Mr. Fitchew and Mr. Eagleburger. They --
01:43 PM22 COMMISSIONER SENN: Mr. Lefkin, you promised us a copy of
23 the study. Do you want to give it to us?
01:43 PM24 MR. PETER LEFKIN: I presented a copy of that to you. I
01:43 PM25 actually we gave a verbal presentation, not just to you

01:43 PM 1 privately in Olympia -- and I remember that day fondly --

2 COMMISSIONER SENN: Right.

01:43 PM 3 MR. PETER LEFKIN: -- but also in Boston. You had asked

01:43 PM 4 us to testify, and we had Mr. Wagner here from Germany,

01:43 PM 5 and he spent an exhaustive and laborious presentation of

01:43 PM 6 about an hour-and-a-half, and which you should have

01:43 PM 7 received the notes from that meeting. And I will be happy

01:43 PM 8 to provide you the notes from that meeting. I was there,

01:43 PM 9 and I think you were there, too, Ms. Senn.

01:43 PM10 COMMISSIONER SENN: Okay. But not a copy of the study?

01:43 PM11 MR. PETER LEFKIN: I will give you copies of the summary.

01:43 PM12 As I say, the rest of it is being submitted to the

01:44 PM13 International Commission as part of this multifaceted

01:44 PM14 auditing approach. I will give you what I can give you,

01:44 PM15 but I can assure you that you have -- the relevant

01:44 PM16 portions of it are things that you have already received

17 in the past.

01:44 PM18 DEPUTY COMMISSIONER COOPERSMITH: What is the reluctance

01:44 PM19 -- if you say that your process had been vetted by

01:44 PM20 independent auditors, what is the reluctance of turning

21 over the report?

01:44 PM22 MR. PETER LEFKIN: There really absolutely is no

23 reluctance --

01:44 PM24 DEPUTY COMMISSIONER COOPERSMITH: You are willing to make

01:44 PM25 a commitment today?

1 MR. PETER LEFKIN: Please, Deputy Commissioner
01:44 PM 2 Coopersmith, if you will let me finish. I would prefer to
01:44 PM 3 do -- I will give you a copy of the summary of that
01:44 PM 4 proceedings. There have been -- subsequently, as part of
01:44 PM 5 the International Commission, which all of us are
01:44 PM 6 cooperating and working in good faith in, there has been
01:44 PM 7 an agreement on the process of auditing, and we are all
01:44 PM 8 supposed to sort of refrain from providing these
9 individual audits until there is some type of master
10 coordination.

01:44 PM11 Now, I would very much like to provide this to
01:44 PM12 you, but I have certainly -- I've got other members of the
01:44 PM13 commission who are urging that we provide auditing and we
01:44 PM14 are not doing this on a piecemeal basis.

15 But I can assure you, Ms. Seen, you already have
01:45 PM16 the relevant features of that, and I would be delighted to
01:45 PM17 share with you, once again, the summary of that study that
01:45 PM18 was presented by Mr. Wagner to you and the other members
01:45 PM19 of the NAIC Task Force in Boston in June of 1998.

01:45 PM20 COMMISSIONER SENN: So you will give us the summary but
01:45 PM21 not the full study? It just requires a yes or no answer.

01:45 PM22 MR. PETER LEFKIN: I have to check the confidentiality of
01:45 PM23 that, as will you.

01:45 PM24 DEPUTY COMMISSIONER COOPERSMITH: It makes it very
01:45 PM25 difficult to evaluate your assurance that Allianz is

01:45 PM 1 proceeding in good faith and wants to pay Holocaust claims
01:45 PM 2 promptly.

01:45 PM 3 MR. PETER LEFKIN: I understand your situation. I mean, I
01:45 PM 4 will have to go back to Allianz to ask whether or not you,
01:45 PM 5 as the only Insurance Commissioner in the country, will
01:45 PM 6 receive a copy of this study when, in fact, they have
01:45 PM 7 already agreed on very elaborate processes involving all
01:45 PM 8 of your other colleagues, European regulators and Jewish
01:45 PM 9 organizations. It raises an issue that I cannot answer
01:45 PM10 today.

01:46 PM11 However, I can assure you, Ms. Senn, you have
01:46 PM12 heard the results of that study before, and I would be
01:46 PM13 happy to give you that which was presented to you in
14 Boston once again.

01:46 PM15 COMMISSIONER SENN: And this is basically a study of the
01:46 PM16 file search done by Allianz to see what claims they
01:46 PM17 believe they have in their records, is that correct?

01:46 PM18 MR. PETER LEFKIN: The final search and also to determine,
01:46 PM19 you know, what portion of -- they are making certain that
01:46 PM20 Jewish policy holders were, indeed, paid -- the Jewish
01:46 PM21 policy holders and the victims of the Holocaust were paid.

22 It was sort of an elaborate methodology, which you
01:46 PM23 probably don't want me to go into the details today. It
01:46 PM24 was not part of the list of submitted questions that you
01:46 PM25 sent to me.

01:46 PM 1 COMMISSIONER SENN: Mr. Lefkin, it is my understanding
01:46 PM 2 that Allianz -- and this is aside from RAS -- has
01:46 PM 3 identified 1.5 million policies in your files in Germany.
01:46 PM 4 That's correct?

01:46 PM 5 MR. PETER LEFKIN: That is correct, Ms. Senn.

01:46 PM 6 COMMISSIONER SENN: What have you done to garner that
01:47 PM 7 information and make those policy holder names -- first,
01:47 PM 8 before we even talk about availability, let's talk about
01:47 PM 9 what you've done to make those policy holder names in a
01:47 PM10 form that they can be examined by the International
01:47 PM11 Commission or by state regulators?

01:47 PM12 MR. PETER LEFKIN: That is a good question, and what has
01:47 PM13 been done -- in fact, we reached an agreement with Mr.
01:47 PM14 Brown. This is -- policy holder names unfortunately in
01:47 PM15 1940, in the midst the World War II and the Nazi period,
01:47 PM16 these names were not kept on computerized disks as our
01:47 PM17 contemporary documents are, so these are all paper
18 archives, very frail and very brittle. We have begun this
01:47 PM19 very labor intensive exercise to try to identify and bring
01:47 PM20 forth names, put them on computer disk, and submit them to
21 Yad Vashem to ascertain whether or not -- whether any of
01:47 PM22 these policy holders may or may not have been a victim of
23 Nazi persecution.

01:48 PM24 Some 14,600 names were submitted to the
01:48 PM25 International Commission to be delivered to Yad Vashem

01:48 PM 1 just on Monday. And this is an ongoing procedure, very
01:48 PM 2 labor intensive, and it is going to be -- but Mr. Brown
01:48 PM 3 seems to be very satisfied with the result, as are we.
01:48 PM 4 We're trying to get to the bottom of this.

5 I just wished I could push that computer button
6 and give you everything we've got.

01:48 PM 7 COMMISSIONER SENN: When did you start to computerize
01:48 PM 8 these 14,000 names?

01:48 PM 9 MR. PETER LEFKIN: We began this process -- the first
01:48 PM10 thing, we've always been paying off claims, as you know,
01:48 PM11 very aggressively, but we began this process of submitting
01:48 PM12 the list of names, 150,000 names, to Yad Vashem --

13 COMMISSIONER SENN: Wait a minute. You're going to give
01:48 PM14 150,000 names, but there are 1.5 million names. So you're
15 going to give 1.5 million names to Yad Vashem, are you
16 not?

01:48 PM17 MR. PETER LEFKIN: No, I didn't say that, Ms. Senn.

01:48 PM18 COMMISSIONER SENN: Okay.

01:48 PM19 MR. PETER LEFKIN: We've reached this agreement with Mr.
01:48 PM20 Brown. We're dealing with many of the policy files, of
01:48 PM21 course, that are very -- of those 1.5 million policy
01:49 PM22 files, the first thing 99.5 or more are not Jewish policy
01:49 PM23 files. Those do not belong to victims of Nazi persecution.

01:49 PM24 COMMISSIONER SENN: And how do you know that?

25 MR. PETER LEFKIN: Through the Arthur Anderson audit and

01:49 PM 1 so forth. I mean, the portfolio mix of Allianz at that
01:49 PM 2 time in Arthur Anderson, in terms of this, there was a
01:49 PM 3 very small percentage of Jewish policy holders in Germany
01:49 PM 4 at that time.

01:49 PM 5 Now, if I may finish --

01:49 PM 6 COMMISSIONER SENN: How did you determine who was a Jewish
01:49 PM 7 policy holder?

01:49 PM 8 MR. PETER LEFKIN: It's extremely difficult. What we did
01:49 PM 9 in the Arthur Anderson study -- and you probably recall
01:49 PM10 this from our discussions in Boston -- Allianz at that
01:49 PM11 time, and certainly up to today, would never determine who
01:49 PM12 or who was not a Jewish policy holder. But what is
01:49 PM13 determined is you sort of go through this on a case by
01:49 PM14 case basis to look for particular evidence of whether or
01:49 PM15 not a potential policy holder may or may not have been
01:49 PM16 Jewish. And that is a very, very difficult task, because
01:49 PM17 the names, particularly in Germany, don't lend themselves
01:50 PM18 to easy identification.

01:50 PM19 But if you have somebody who simply has the last
01:50 PM20 address in 1936, and the next address correspondence was
21 in Palestine in 1938 or 1939, it's probably reasonable
01:50 PM22 this was a Jewish policy holder. Alternatively, if that
01:50 PM23 same person was involved in the German military or was a
01:50 PM24 German bank executive in 1944, probably reasonably it was
01:50 PM25 not. It has to be done in a -- you know, it's a very

01:50 PM 1 laborious process, and it doesn't lend itself immediately.
01:50 PM 2 The most important thing, though, as we begin this process
01:50 PM 3 and this auditing, claims are being paid.
01:50 PM 4 DEPUTY COMMISSIONER COOPERSMITH: But it also doesn't lend
01:50 PM 5 itself to you testifying that 99 percent of your policy
01:50 PM 6 holders weren't victims of the Holocaust.
01:50 PM 7 MR. PETER LEFKIN: There again, the summaries of the
01:50 PM 8 Arthur Anderson report have already been provided to you,
01:50 PM 9 and I don't want to get involved in that one again. I
01:50 PM10 will see if I can come back to you and provide you the
01:50 PM11 more detailed report.
01:50 PM12 But we're also dealing with the situation where
01:51 PM13 the Arthur Anderson report also revealed that not only
01:51 PM14 very high percentages of how most policies involved in
01:51 PM15 Germany at that time were not people of Jewish origin or
01:51 PM16 decent or religion, and the other 99 -- a very high --
01:51 PM17 most of the other policies, including the Jewish policies,
01:51 PM18 have also been paid.
01:51 PM19 So we're dealing with a very rough universe of 1.5
01:51 PM20 million names, of which very few of those belong to
01:51 PM21 victims of Nazi persecution, and very few of those
01:51 PM22 policies were not paid.
01:51 PM23 COMMISSIONER SENN: I guess the question I have,
01:51 PM24 Mr. Lefkin, is that I am curious, because we've known for
01:51 PM25 several years that 1.5 million files of policy holders.

01:51 PM 1 Generali, who will be here to testify today, has given a
01:51 PM 2 disk to Yad Vashem that has over 300,000 policy holder
01:51 PM 3 names on it, and I have heard as of the last 24 hours that
01:51 PM 4 Allianz has submitted 14,000 names, and I guess the
01:52 PM 5 question is what is taking so long?
01:52 PM 6 MR. PETER LEFKIN: What is taking so long -- first, there
01:52 PM 7 are several things. Generali -- and Mr. Carnicelli is
01:52 PM 8 here to respond for Generali -- Generali had provided --
01:52 PM 9 they didn't provide policy holders. They provided deck
01:52 PM10 pages, which are different than policies. As a matter of
01:52 PM11 fact, we're not certain whether they are, indeed,
01:52 PM12 policies. Generali is providing information to you
13 related to Europe, and they are not subject to the laws of
14 Eastern Europe. Allianz, of course, is subject to the
01:52 PM15 laws of Germany, and there is very, very strong privacy
01:52 PM16 consideration in Germany as a result of this historical
01:52 PM17 legacy of the 20th Century. It doesn't lend itself to
18 publication of names.
01:52 PM19 If you lived in a country where you have had the
01:52 PM20 twin horrors of Nazi oppression and the abuse of a police
01:52 PM21 state there combined in the first half of the century, and
22 then the second half -- the Nazi East Germany in the
01:52 PM23 second half of the century, there are strong reasons why
01:52 PM24 the German privacy laws are as strong as they are,
01:52 PM25 Ms. Senn, and I think we want them to be that strong.

01:53 PM 1 COMMISSIONER SENN: Well, what has taken so long to get
01:53 PM 2 the names onto a computer disk, is my question?

01:53 PM 3 MR. PETER LEFKIN: The first thing, it has not necessarily
01:53 PM 4 been the relevant issue of -- the mission of Allianz and
01:53 PM 5 the mission of International Commission has been payment
01:53 PM 6 of claims, not to produce archeological data. We have
01:53 PM 7 subsequently reached an agreement in the confines of
8 certain negotiations and discussions with the
01:53 PM 9 International Commission as to what is the best means of
01:53 PM10 assuring that payment is made to people who were -- where
01:53 PM11 no payment has not previously been made. It has been
01:53 PM12 determined before that the idea of spending hundreds and
01:53 PM13 hundreds of millions of dollars to do an archeological
01:53 PM14 research and put this on computer data, records 55 years
01:53 PM15 ago which will lend itself to almost an inconclusive and
01:53 PM16 almost insignificant number of unpaid policies detracts
01:53 PM17 from our time. What we should be doing is insuring
01:53 PM18 payment, focusing on humanitarian payments and making sure
01:53 PM19 some of the elderly people here receive something.

01:54 PM20 I can spend 20 years doing research --

01:54 PM21 DEPUTY COMMISSIONER COOPERSMITH: Mr. Lefkin, is it your
01:54 PM22 testimony that one-and-a-half million policy holders, the
01:54 PM23 determination that you initially said it was 99 percent of
01:54 PM24 them were not victims of the Holocaust, that determination
01:54 PM25 was made by the company itself, is that correct?

1 MR. PETER LEFKIN: No, it wasn't, Deputy Commissioner
2 Coopersmith. You're putting words in my mouth.

01:54 PM 3 DEPUTY COMMISSIONER COOPERSMITH: I want to make sure that
01:54 PM 4 we understand your testimony.

01:54 PM 5 MR. PETER LEFKIN: Okay. That determination was made in a
01:54 PM 6 number of forms. The first thing, it has been
01:54 PM 7 independently audited by the German supervisory
01:54 PM 8 authorities. And I might suggest at some period in time
01:54 PM 9 that you all come to visit in Germany. We would be
01:54 PM10 delighted to have you as our guests and have the German
01:54 PM11 government -- which also has supervisory authority over
01:54 PM12 insurance companies -- they have worked extensively to do
01:54 PM13 auditing of Allianz and other German insurance companies.

01:54 PM14 DEPUTY COMMISSIONER COOPERSMITH: Did this audit produce a
01:54 PM15 report?

01:54 PM16 MR. PETER LEFKIN: To my knowledge, I cannot respond
01:54 PM17 affirmatively one way or the other. They have more or
01:54 PM18 less determined that the claims practices of the Allianz
01:55 PM19 and other German insurance companies have been very good,
01:55 PM20 they have been very aggressive in seeking these things out
21 and so forth.

01:55 PM22 But our focus thus far, and the focus when you had
01:55 PM23 your earlier hearing, Ms. Senn, back in Seattle,
01:55 PM24 Washington D.C., Boston, and in a number of other forms,
01:55 PM25 was you wanted the claims paid. You didn't ask us for

01:55 PM 1 lists. The issue of lists has come up relatively
01:55 PM 2 recently, and for that reason it was addressed by Mr.
3 Brown back in October in Washington, D.C., and Mr. Brown
01:55 PM 4 is with the Israeli government, and he probably could
01:55 PM 5 better answer that response than I can. It seems to be
01:55 PM 6 satisfactory to him, to Mr. Eizenstat and Mr. Eagleburger.
01:55 PM 7 DEPUTY COMMISSIONER COOPERSMITH: You were going to
01:55 PM 8 respond about who has determined the percentage of policy
01:55 PM 9 holders who were victims of the Holocaust. You mentioned
01:55 PM10 that the German Supervisory Authorities have, and you have
01:55 PM11 referred to Arthur Anderson, as well.
01:55 PM12 MR. PETER LEFKIN: Right.
01:55 PM13 DEPUTY COMMISSIONER COOPERSMITH: Did any other entity,
01:55 PM14 other than Allianz itself, reach this conclusion?
01:55 PM15 MR. PETER LEFKIN: Frankly, I don't know. And I would be
01:55 PM16 happy to get back to you. But, as I said, the focus of
01:55 PM17 this hearing, I thought, was to try to determine my claims
01:56 PM18 practices, not my auditing procedures.
01:56 PM19 COMMISSIONER SENN: Mr. Lefkin, I just want to remind you
01:56 PM20 that in the Memorandum of Understanding, as I negotiated
01:56 PM21 that Memorandum of Understand myself, there is a reference
01:56 PM22 to publication of names. It has always been our belief
01:56 PM23 that the only way there could be real justice in this
01:56 PM24 process is to publish policy holder names so that people
01:56 PM25 can find their families' names on a list, and that

01:56 PM 1 principle is one of the bulwarks of this Memorandum of
2 Understanding.

01:56 PM 3 So I really take exception with your statement
01:56 PM 4 that this is an issue raised lately by Mr. Brown in the
01:56 PM 5 negotiations. I think the publication of names is the key
01:56 PM 6 to this process, and the longer that you or any company
01:56 PM 7 delays in publishing these names, in computerizing these
01:56 PM 8 names, and getting them out to the public, the less your
01:56 PM 9 liability is. And so I would just take exception with
01:57 PM10 your comment that we are Johnny-Come-Lately on the
01:57 PM11 publication of names.

01:57 PM12 Now, it would be section 4-B, "As part of the
01:57 PM13 audit mandate the International Commission will address
01:57 PM14 the issue of a full accounting by the insurance companies
01:57 PM15 and publication of the names of Holocaust victims who held
16 unpaid insurance policies."

01:57 PM17 MR. PETER LEFKIN: And they did that in October. They
01:57 PM18 addressed that issue in October, Ms. Senn. And that's why
01:57 PM19 we reached that agreement with 150,000 name. This is very
01:57 PM20 significant. I've got 20 or 30 people working full-time
01:57 PM21 right now, sitting in an ancient room, trying to compile
01:57 PM22 these lists. It's an exhaustive process.

23 COMMISSIONER SENN: And I commend you, that you have
24 gotten 14,000 of them over to Yad Vashem.

01:57 PM25 MR. PETER LEFKIN: And we're doing a lot more now.

01:57 PM 1 COMMISSIONER SENN: But our law requires that you turn
01:57 PM 2 over policy holder names to the State of Washington. And
01:58 PM 3 our law does not require a sample or a portion of those
01:58 PM 4 policy holder names. It requires that your turn over all
01:58 PM 5 policy holder names.

01:58 PM 6 And so my question to you is whether you plan to
01:58 PM 7 do that with the International Commission and when you
01:58 PM 8 plan to do that with the State of Washington? Because I
01:58 PM 9 have to have an assurance that you are going to turn the
01:58 PM10 names over to the International Commission, and those
01:58 PM11 names will be available to us, because that is what our
01:58 PM12 statute envisions. And let me just say, for the record,
01:58 PM13 the statute says the policy holder names for policies in
01:58 PM14 effect from 1933 to 1945.

01:58 PM15 MR. PETER LEFKIN: Your statute also envisions this
01:58 PM16 international cooperative approach, and that's what we are
01:58 PM17 proceeding there. I mean, I'm trying to -- I think we are
01:58 PM18 truly operating in the spirit or the Washington law. We
01:59 PM19 are trying provide as much public light on this issue as
01:59 PM20 is possible.

01:59 PM21 I would very much -- Ms. Senn, I know you are a
01:59 PM22 very sympathetic person. Come to Germany. Visit us. See
01:59 PM23 these files. See how difficult and labor intensive it is
01:59 PM24 go through files that are so brittle that if you put your
25 hands on them they fall apart.

01:59 PM 1 DEPUTY COMMISSIONER COOPERSMITH: Commissioner Senn asked
01:59 PM 2 you a direct question. Can we get a direct answer?
01:59 PM 3 Is Allianz prepared to send the State of
01:59 PM 4 Washington the policy holder names of policy holders from
01:59 PM 5 1933 to 1945, as required by Washington Law?
01:59 PM 6 MR. PETER LEFKIN: Allianz is prepared to comply with the
01:59 PM 7 Washington State Law, and we believe we are already in
01:59 PM 8 compliance with the Washington State Law, as a result of
01:59 PM 9 our cooperation with Mr. Eagleburger, Mr. Brown, and other
01:59 PM10 members of the International Commission.
01:59 PM11 DEPUTY COMMISSIONER COOPERSMITH: So we will take that as
01:59 PM12 a yes, that Allianz is prepared to submit those names?
13 MR. PETER LEFKIN: We are prepared to submit the names to
01:59 PM14 Mr. Eagleburger and the International Commission as
01:59 PM15 contemplated in the spirit of the Washington Law, where
01:59 PM16 you anticipated in going forward that you would be working
02:00 PM17 with other regulators, including your European
02:00 PM18 counterparts, to try to come to a common resolution of
02:00 PM19 this issue.
02:00 PM20 COMMISSIONER SENN: Okay, but here is my problem, MR.
02:00 PM21 Lefkin. We've got 1.5 million policy holder names, and
02:00 PM22 you're telling me that 15,000 of them are going to go to
23 Yad Vashem --
24 MR. PETER LEFKIN: 150,000.
02:00 PM25 COMMISSIONER SENN: 150,000 of them. By when?

02:00 PM 1 MR. PETER LEFKIN: Probably over the course of the next
02:00 PM 2 year or so. It's taking us -- as I said, it's a labor
02:00 PM 3 intensive process. We've submitted 15,000, and it takes
02:00 PM 4 about -- in my impression, Ms. Senn, it takes 2,500 a week
02:00 PM 5 that we're capable of compiling, as we have these people
02:00 PM 6 working very diligently in a very arduous task. It will
02:00 PM 7 probably take about year.

02:00 PM 8 COMMISSIONER SENN: So it will take a year. Now, let me
02:00 PM 9 -- so that's 150,000, okay, so there is still -- let me do
02:01 PM10 my math quick -- there are still 1.35 million policy
02:01 PM11 holder names in your files. Will those be submitted to
02:01 PM12 the Commission?

02:01 PM13 MR. PETER LEFKIN: Those policy records -- those policies,
02:01 PM14 first, will be reviewed and audited to do -- as part of
02:01 PM15 the Commission mandate -- and Mr. Fitchew is certainly an
02:01 PM16 expert on the auditing process, and Mr. Sher, while I am
17 not -- but there is in place a very strong monitoring
18 process to insure.

19 The important thing, frankly, I thought, was to
02:01 PM20 make sure the claims are paid. And the policy holders,
02:01 PM21 who have reason to believe that the policy may have
02:01 PM22 existed or are merely interested, could be assured that
23 there is a mechanism in place to guarantee justice. And
24 we are focusing our attention on that issue.

02:01 PM25 Now, the auditing process, we have a procedure in

02:01 PM 1 place to govern our conduct in the auditing procedures.
02:01 PM 2 We are going forward with the list, because it's an
02:01 PM 3 important issue. It sort of determines -- gives you a
02:01 PM 4 basability to determine and ascertain statistical
02:01 PM 5 probabilities, percentages, and so forth, comparable to
02:02 PM 6 what we've already done with the Arthur Anderson report.
02:02 PM 7 DEPUTY COMMISSIONER COOPERSMITH: Well, Mr. Lefkin, you
02:02 PM 8 and the other company representatives should be aware that
02:02 PM 9 Commissioner Senn has an independent obligation under the
02:02 PM10 Washington Statute to insure that the insurance companies
02:02 PM11 doing business in the State of Washington are doing so
02:02 PM12 with integrity and are worthy of the public's trust. She
02:02 PM13 also has an independent obligation to protect the
02:02 PM14 Holocaust victims and their heirs who reside in this
15 state.
02:02 PM16 So the fact that your company believes it is
02:02 PM17 cooperating with the International Commission does not
02:02 PM18 relieve Allianz of the obligation to abide by the
02:02 PM19 Washington State Statute.
02:02 PM20 MR. PETER LEFKIN: I believe that we are abiding by the
02:02 PM21 Washington State Statute. I believe that 250 people that
02:02 PM22 work for Fireman's Fund in this community are providing a
02:02 PM23 very productive service. I also believe that we are
02:02 PM24 100 percent committed to providing humanitarian justice.
02:02 PM25 And I also think, Ms. Senn, it was your -- I though it was

02:03 PM 1 an excellent idea when you recommended the International
02:03 PM 2 Commission, because you felt at that time the cooperative
02:03 PM 3 -- international cooperative proceeding was the best way
02:03 PM 4 to go.

02:03 PM 5 COMMISSIONER SENN: And I do support the International
02:03 PM 6 Commission. But it is my job, under the law, to determine
02:03 PM 7 whether or not the International Commission is
02:03 PM 8 accomplishing the purposes set forth by the legislature,
02:03 PM 9 and it was passed unanimously last year.

02:03 PM10 So I'm going to ask you to answer the question a
02:03 PM11 little more briefly. I know that you are an attorney, and
02:03 PM12 I am an attorney, you know, and you get paid by the word.
02:03 PM13 I won't ask you the German word for filibuster. Just a
02:03 PM14 little more briefly so we can move onto the other
02:03 PM15 companies.

02:03 PM16 But what I have to have a sense of, Peter, is if
02:03 PM17 Allianz is planning to submit the other 1.3 million names
02:03 PM18 to the Commission, because I've got to make a judgment as
02:03 PM19 to whether or not the registry requirement in the statute
02:03 PM20 is going to be fulfilled.

02:04 PM21 MR. PETER LEFKIN: If I may just address this point. I
02:04 PM22 mean, first, I want to make sure that you are aware before
02:04 PM23 I answer this question that 1.5 million are not victims of
02:04 PM24 the Holocaust, these are policy holders, all German
02:04 PM25 policies, Allianz portfolios of all of its policies from

02:04 PM 1 that period of time.

02:04 PM 2 COMMISSIONER SENN: I understand that.

02:04 PM 3 MR. PETER LEFKIN: And you want all of those, am I

02:04 PM 4 correct?

02:04 PM 5 COMMISSIONER SENN: That's what our law says.

02:04 PM 6 MR. PETER LEFKIN: And you not only want all of these, you

02:04 PM 7 will also want the determination as to whether or not

02:04 PM 8 every one of those policies has been paid and to whom they

02:04 PM 9 were paid in 1947, and 1949, and 1953? I need some

02:04 PM10 clarification before I can even --

02:04 PM11 COMMISSIONER SENN: I guess I would have to say to you,

02:04 PM12 Mr. Lefkin, that if you were to come to us and say we have

02:04 PM13 1.5 million policy records, and of the 1.5 million we can

02:05 PM14 show you that 500,000 were paid, and you gave us the

02:05 PM15 definition of paid -- and we haven't even got into the

02:05 PM16 issue of what a paid policy is, because we know -- for

02:05 PM17 example, we know, Mr. Lefkin, that when people were taken

02:05 PM18 to concentration camps, and they were transported, that in

02:05 PM19 the books of insurance companies in Europe the policy was

02:05 PM20 considered paid, and the obligation reduced. So we are

02:05 PM21 very concerned about the definition of paid. But

02:05 PM22 notwithstanding that, if you could come to us and show

02:05 PM23 that no, these are paid policies, these are people who

02:05 PM24 lived in Munich and Berlin and were paid off, and these

02:05 PM25 were not victims of the Holocaust, you know, then we are

02:05 PM 1 not interested in those 500,000.

02:05 PM 2 MR. PETER LEFKIN: How would you determine that, though?

02:06 PM 3 I mean, do you want us to submit every name to you for you

4 to determine whether or not Mr. Max Braun was a victim of

5 the Holocaust, and whether or not Mrs. Braun collected in

6 1957, she was Jewish --

02:06 PM 7 COMMISSIONER SENN: Let me do this. I want you to turn

02:06 PM 8 around a second. Would John Friedmann please raise his

02:06 PM 9 hand? John, raise your hand and just identify yourself.

02:06 PM10 Okay, you can sit back down.

02:06 PM11 John is going to talk in a few minute, but I want

02:06 PM12 to tell you about John Friedmann who is from -- Berlin, is

13 it, John?

14 MR. JOHN FRIEDMANN: Yes.

02:06 PM15 COMMISSIONER SENN: We, on the internet in the last

02:06 PM16 several months, the magazine, the genealogy magazine

02:06 PM17 Avotaynu, published a list of -- was it the Austrian

02:06 PM18 files? I'm sorry -- the Austrian files, okay, and John

02:06 PM19 Friedmann looked on those files, and he found that his

02:06 PM20 family has a policy. And I forgot, John, was it the

02:07 PM21 Municipal Insurance Company of Vienna, is that what it

02:07 PM22 was?

02:07 PM23 Okay, now, the only way that John would have known

02:07 PM24 about the policy was because there is was a published list

02:07 PM25 of names. That's how he found it.

02:07 PM 1 So, you know, when you say to me that, you know,
02:07 PM 2 you're not concerned about an archeological dig, you're
02:07 PM 3 interested in paying claims, I would respond to you,
02:07 PM 4 you're not going to have claims to pay unless people know
02:07 PM 5 who had policies. You know, because most of the survivors
02:07 PM 6 today, you know, were nine or ten or five years old, and
02:07 PM 7 they didn't know what insurance was. So I don't think
02:07 PM 8 they have the policies when they were taken to camps.

02:07 PM 9 And so we've got to give the survivors, I think
02:07 PM10 they are entitled to the assistance, and I think that's
02:07 PM11 what the Washington State Legislature envisioned in its
02:07 PM12 process about publication of names. So I won't belabor
02:07 PM13 this.

02:07 PM14 MR. PETER LEFKIN: What about the practicality, though? I
02:08 PM15 mean, I have these paper archives, in which very few bear
02:08 PM16 relevance to the Holocaust, and you want me to go through
02:08 PM17 every one of them to try to determine and send all this
02:08 PM18 information over to you, and only to Washington, and I'm
02:08 PM19 trying to understand how this will work. Because I
02:08 PM20 haven't seen the regulations yet, and I'm not quite sure I
21 can comply.

02:08 PM22 DEPUTY COMMISSIONER COOPERSMITH: Mr. Lefkin, they make
23 their obligations very clear. It's set forth in
02:08 PM24 RCW 48.104.060. That's what your obligated to turn over
02:08 PM25 to the Insurance Commissioner is, as part of this process

02:08 PM 1 to determine whether, in fact, your company is proceeding
2 in good faith.

02:08 PM 3 MR. PETER LEFKIN: I cannot make that determination. I
02:08 PM 4 know we are operating in good faith with the people whom I
02:08 PM 5 tremendously respect who are part of the International
6 Commission, Mr. Eizenstat and Mr. Eagleburger and others,
02:08 PM 7 who say I am operating in good faith.

02:08 PM 8 I can't answer your specific question, Deputy
02:08 PM 9 Commissioner Coopersmith, until I see the regulation.
02:08 PM10 However, as I said, Mr. Eizenstat should bear witness on
02:08 PM11 the integrity of my company.

02:09 PM12 COMMISSIONER SENN: You haven't seen our regulation -- you
02:09 PM13 haven't seen our statute?

02:09 PM14 MR. PETER LEFKIN: I have seen the statute. I haven't
02:09 PM15 seen the regulation.

16 DEPUTY COMMISSIONER COOPERSMITH: The statute spells out
17 exactly what it is you were supposed to submit.

02:09 PM18 MR. PETER LEFKIN: As I said, usually there are
02:09 PM19 regulations that accompany statutes, in my 15 years of
02:09 PM20 experience in the insurance industry, and I would like for
02:09 PM21 you to provide a little bit of clarity as to exactly what
02:09 PM22 is required.

02:09 PM23 COMMISSIONER SENN: The statute is very specific, and
02:09 PM24 that's a compliment to our legislators. They made it
02:09 PM25 specific, no regulatory or action with regard to a

02:09 PM 1 definition of that portion of the statute was necessary.

02:09 PM 2 Now, in my discretion as a regulator I can opt not

02:09 PM 3 to regulate the regulation. It actually would make me

02:09 PM 4 popular not to relegate the regulation when the statute --

02:09 PM 5 MR. PETER LEFKIN: If you're a specific -- if you are a

02:09 PM 6 member of good standing of the International Commission,

02:09 PM 7 you are also exempt from these procedures that --

02:09 PM 8 COMMISSIONER SENN: Mr. Lefkin, that's not the question on

02:09 PM 9 the floor.

02:09 PM10 DEPUTY COMMISSIONER COOPERSMITH: Mr. Lefkin, are you

02:09 PM11 saying that you haven't been able to provide the list of

02:09 PM12 names so far because you have been confused? I mean, is

02:10 PM13 it really that Allianz is confused about what its

02:10 PM14 obligations are under Washington Law? It says so right in

02:10 PM15 104.060, we understand that the safe harbor exemption has

02:10 PM16 been in effect up until now. Commissioner Senn has asked

02:10 PM17 you repeatedly when can she expect information, and she

02:10 PM18 has asked it to be submitted, and it seems that each time

02:10 PM19 you have given a partial answer or you will have to get

02:10 PM20 back to us.

02:10 PM21 We expected that you would come today and have

02:10 PM22 demonstrable proof of what the company has done and what

02:10 PM23 steps it is going to take and when to comply with

02:10 PM24 Washington Law.

02:10 PM25 MR. PETER LEFKIN: You provided me with a list of seven

02:10 PM 1 questions beforehand, and this was not one of them, Deputy
2 Commissioner Coopersmith, and I did say before that we are
02:10 PM 3 provided -- you know, we're working -- the issue lists we
02:10 PM 4 thought was addressed in October. I would be happy to get
02:11 PM 5 back to you. And, in fact, if it was provided in these
02:11 PM 6 other six questions I would have a more definitive and
7 more detailed response.

02:11 PM 8 DEPUTY COMMISSIONER COOPERSMITH: I think you have
02:11 PM 9 answered the question in terms of what procedure the
02:11 PM10 International Commission has directed they follow and what
02:11 PM11 they are following in that respect.

02:11 PM12 COMMISSIONER SENN: So just to sum up, let me understand.
02:11 PM13 You are going to provide to the Commission 150,000 names
02:11 PM14 from your file of 1.5 million over the course of a year.

02:11 PM15 MR. PETER LEFKIN: Uh-huh, over the course, that's
02:11 PM16 correct.

02:11 PM17 COMMISSIONER SENN: And which 150,000 are they going to
02:11 PM18 be?

02:11 PM19 MR. PETER LEFKIN: These would be our large sum insureds,
02:11 PM20 and this is meant to be a -- this is sort of a first --
02:11 PM21 anticipated first step in the process.

02:11 PM22 COMMISSIONER SENN: Your large sum insureds?

02:11 PM23 MR. PETER LEFKIN: These are larger policies that are
02:11 PM24 called Gross Lebens, which almost translates into English.
02:11 PM25 These are policies above 3,000 Deutch Marks.

02:12 PM 1 COMMISSIONER SENN: So that is how you selected them?

02:12 PM 2 MR. PETER LEFKIN: That's correct.

02:12 PM 3 COMMISSIONER SENN: 150,000 large policies?

02:12 PM 4 MR. PETER LEFKIN: That's correct, on a random basis, and,

02:12 PM 5 as I said, these are not -- this is not Allianz doing this

02:12 PM 6 on its own. This is pursuant to an agreement that was

02:12 PM 7 achieved by a number of parties. So I don't want you to

02:12 PM 8 think that I'm trying to hide anything. We are very much

02:12 PM 9 operating in the spirit of public candor here.

02:12 PM10 COMMISSIONER SENN: I understand. We have to make a

02:12 PM11 determination as to what to do about, under our statute we

02:12 PM12 have 1.3 million policies that no one is going to see.

02:12 PM13 MR. PETER LEFKIN: That's not true, Ms. Senn. Aren't --

02:12 PM14 your statutes address -- you want to make sure that my

02:12 PM15 company is honorably abiding by its commitments to the

02:12 PM16 Commission and is honorably addressing its claims, and

02:12 PM17 we're doing that. And, as I said, you're allowing one

02:12 PM18 issue to sort of determine whether or not -- to which I

02:12 PM19 cannot respond right now, and which I've got German

02:12 PM20 privacy laws and physical difficulty in trying to get

02:12 PM21 these records intact -- you're allowing that one issue to

02:13 PM22 sort of cloud all of our judgements as to what our

02:13 PM23 important -- the important matter is, which is to insure

02:13 PM24 cooperation and to insure expeditious payment of claims.

02:13 PM25 COMMISSIONER SENN: And finally, and I'm not going to

02:13 PM 1 belabor this. I just want to remind you, Mr. Lefkin, that
02:13 PM 2 you are operating -- your subsidiaries are operating
02:13 PM 3 subject to the laws of the State of Washington, so that
02:13 PM 4 mean if you want to do business in the State of Washington
02:13 PM 5 you have to operate subject to our laws.

02:13 PM 6 MR. PETER LEFKIN: And I can assure you our subsidiaries
02:13 PM 7 are operating fully under the scope of Washington.
02:13 PM 8 Fireman's Fund is one of the most reputable companies
02:13 PM 9 operating in this state. Our people are professionals.
02:13 PM10 They take pride in the work and products that they
02:13 PM11 produce.

12 COMMISSIONER SENN: I'm sure they are, Mr. Lefkin.

02:13 PM13 DEPUTY COMMISSIONER COOPERSMITH: But, Mr. Lefkin, you can
02:13 PM14 appreciate the Commissioner's responsibility. As a
02:13 PM15 regulator she cannot accept at face value assurances given
02:13 PM16 to her at a public hearing that all is well. She needs
02:13 PM17 documentation. She is obligated under the law to collect
02:14 PM18 that documentation. And we are here to ask you when your
02:14 PM19 company is going to provide the documentation, and so far,
02:14 PM20 Mr. Lefkin, we have only heard that you are willing to
02:14 PM21 provide portions of certain documents. So it does not
02:14 PM22 give us the ability -- this does not give us the ability
02:14 PM23 to make a full evaluation of the company's compliance.
02:14 PM24 MR. PETER LEFKIN: Deputy Commissioner Coopersmith, I have
02:14 PM25 enough words in my own mouth for you to put words into it.

02:14 PM 1 I never said that.

02:14 PM 2 As I said, we are providing this information. We
02:14 PM 3 are providing and operating in the course of the
02:14 PM 4 International Commission. We have independent attestation
02:14 PM 5 as to our level of cooperation and compliance with the
02:14 PM 6 Washington State law and our responsibilities under the
02:14 PM 7 International Commission, and I frankly -- I really sort
02:14 PM 8 of somewhat resent your efforts to try to impugn the fact
02:14 PM 9 that we aren't cooperating in this proceeding. We are
02:14 PM10 doing everything possible.

02:14 PM11 I've got 20 people who worked through Christmas
02:14 PM12 vacation just going through these files right now, because
02:14 PM13 I wanted to get them to Mr. Eagleburger by the middle or
02:15 PM14 beginning of January.

02:15 PM15 COMMISSIONER SENN: Okay, Mr. Lefkin, I know -- and I'm
02:15 PM16 only cutting you off for time purposes. I don't mean to
17 cut off what you're saying.

02:15 PM18 Let's turn very quickly to RAS, Adriatica. The
02:15 PM19 Allianz required -- was it in 1991?

20 MR. PETER LEFKIN: 1986.

21 COMMISSIONER SENN: 1986.

02:15 PM22 MR. PETER LEFKIN: They only own 51 percent of them.

02:15 PM23 COMMISSIONER SENN: What is Allianz doing to determine how
02:15 PM24 many files RAS has?

02:15 PM25 MR. PETER LEFKIN: Well, they are working clearly very

02:15 PM 1 closely with RAS, and I'm sure they're trying to
02:15 PM 2 ascertain -- but RAS has complete files, of course, as
02:15 PM 3 relates to Italy, which was a significant portion of the
02:15 PM 4 total business in their own country. In Eastern Europe
5 we've --

02:15 PM 6 COMMISSIONER SENN: Where in Italy is RAS located?

02:15 PM 7 MR. PETER LEFKIN: RAS is now in Milan. They were
8 previously in Trieste before World War II.

9 COMMISSIONER SENN: And their files are in Milan?

02:15 PM10 MR. PETER LEFKIN: That is correct.

02:15 PM11 COMMISSIONER SENN: And how many files are there?

02:15 PM12 MR. PETER LEFKIN: A fairly small number, Ms. Senn,
02:15 PM13 relating to Eastern Europe. There is a large number
02:15 PM14 relating to their Italian operations that are post World
15 War II operations. In Eastern Europe they had the very
16 unfortunate experience of having their companies
17 nationalized.

02:16 PM18 COMMISSIONER SENN: But how many is the number?

02:16 PM19 MR. PETER LEFKIN: It's a fairly small amount, frankly.

02:16 PM20 COMMISSIONER SENN: Ten?

02:16 PM21 MR. PETER LEFKIN: Ms. Senn, I can't answer that question.
22 But I --

02:16 PM23 COMMISSIONER SENN: You have been involved in this issue
02:16 PM24 for several years, and you haven't determined how many
02:16 PM25 policies are in the files of RAS?

02:16 PM 1 MR. PETER LEFKIN: It's a fairly small number, so probably
02:16 PM 2 several file cabinets full, primarily because RAS -- RAS
02:16 PM 3 operated very much like Safeco or any of your Washington
02:16 PM 4 State companies. If Safeco was to begin an international
02:16 PM 5 operations they would be required to -- if they do
02:16 PM 6 business in Hong Kong or Taiwan, those governments would
02:16 PM 7 require that those companies set up segregated accounts to
02:16 PM 8 keep all policy records and assets in those countries --
02:16 PM 9 COMMISSIONER SENN: I just asked how many?
10 MR. PETER LEFKIN: Ms. Senn, I need an explanation,
02:16 PM11 because you're implying that I'm hiding something, and I'm
02:16 PM12 not. The companies portfolios were lost during the war,
02:16 PM13 so there is a fairly small amount.
02:16 PM14 COMMISSIONER SENN: Is it 100? You don't know?
02:16 PM15 MR. PETER LEFKIN: I will be happy to go to RAS and answer
02:17 PM16 that question, and I wish you had submitted it as one in
17 advance.
02:17 PM18 COMMISSIONER SENN: Let me ask you this question. It's my
02:17 PM19 understanding that Allianz and other German insurers filed
02:17 PM20 a report to the German insurance regulator on your
02:17 PM21 Holocaust related files, is that correct?
02:17 PM22 MR. PETER LEFKIN: I believe so. They have filed several,
02:17 PM23 yes.
02:17 PM24 COMMISSIONER SENN: You've filed several?
02:17 PM25 MR. PETER LEFKIN: I mean, there is always -- there is a

02:17 PM 1 lot of filings. I'm not quite sure which one you're
02:17 PM 2 talking about. Yes. I believe so, yes, they have filed.
02:17 PM 3 COMMISSIONER SENN: How many?
02:17 PM 4 MR. PETER LEFKIN: I don't know.
02:17 PM 5 COMMISSIONER SENN: Would you provide us with a copy of
02:17 PM 6 those reports?
02:17 PM 7 MR. PETER LEFKIN: I would be delighted to, provided that
02:17 PM 8 the German legal authorities allow me to do so. If
02:18 PM 9 Mr. Gerlach says it is -- I also have to adhere to the
02:18 PM10 laws of Germany. If I get authorization from Mr. Gurlock,
11 who is the German supervisory authority, I would be
12 delighted to do so.
02:18 PM13 COMMISSIONER SENN: Do you think we will get
02:18 PM14 authorization?
02:18 PM15 MR. PETER LEFKIN: I can't predict one way or the other,
02:18 PM16 Ms. Senn. I just cannot predict regulators, what type of
02:18 PM17 activities, who will or will not be permitted by any
18 regulator.
02:18 PM19 COMMISSIONER SENN: We would like an answer as quickly as
02:18 PM20 possible. What is a blocked account, Mr. Lefkin?
02:18 PM21 MR. PETER LEFKIN: That's interesting one. It's not a
02:18 PM22 confiscated account. A blocked account is where an
02:18 PM23 account has remained on a custodian basis in the country.
02:18 PM24 What frequently happened in Germany, in
02:18 PM25 particular, is Germany was different than Western Europe,

02:18 PM 1 in that the Jewish population in the 1930s faced
02:19 PM 2 ratcheting horror. It wasn't like in Poland, where you
02:19 PM 3 were subject to Nazis, and genocide immediately followed.
02:19 PM 4 In Germany you had six years of ratcheting horror,
02:19 PM 5 therefore you had, in Germany, a significant number of
02:19 PM 6 people immigrating to the number of countries, UK, the
7 United States, Argentina, wherever they could get out.
02:19 PM 8 And frequently when they immigrated they were forced to
02:19 PM 9 keep their assets back when they left the country,
02:19 PM10 subsequently applied to have their insurance assets
02:19 PM11 received -- or before they left the country tried to
02:19 PM12 receive that money.

02:19 PM13 The German government had, at that time, fairly
02:19 PM14 punitive tax levies that not only applied to Jewish
02:19 PM15 people, but all Germans who were immigrating, tax levies,
02:19 PM16 immigration tax levies, and so forth, and also very strong
02:19 PM17 currency controls. So individuals would receive payments
02:19 PM18 for their claims, and it would be kept into a segregated
02:19 PM19 account and could be used for a variety of purposes,
02:19 PM20 payment of immigration taxes, punitive taxes.

02:19 PM21 Alternatively, the currency controls often times
02:19 PM22 would be able to be used by the relatives and friends of
02:19 PM23 the policy holder who lived and remained in Germany. But
02:20 PM24 the payments were given to a specific escrow account.

02:20 PM25 COMMISSIONER SENN: And is it Allianz's position that you

02:20 PM 1 will pay or recognize as valid claims arising from
02:20 PM 2 policies paid out before 1945, from the so-called blocked
02:20 PM 3 accounts?

02:20 PM 4 MR. PETER LEFKIN: Under German law they are presumed to
02:20 PM 5 be legally valid blocked account payments, because they
02:20 PM 6 have been made by the insurance companies pursuant to a
02:20 PM 7 custodian be present by the policy holder.

02:20 PM 8 Subsequently you should know many of these
02:20 PM 9 policies -- you know, people have received restitution
02:20 PM10 payments where they have been forced to pay these
02:20 PM11 exorbitant --

02:20 PM12 COMMISSIONER SENN: So the answer is that you --

02:20 PM13 MR. SIGURD BORGERSEN: Excuse me. Is your question would
02:20 PM14 Allianz pay all monies that went into the blocked
02:20 PM15 accounts, irrespective of any other circumstances?

02:20 PM16 COMMISSIONER SENN: No. I guess my question is if you
02:20 PM17 have a claimant, and you determine that the claim arose
02:20 PM18 out of a blocked account, what is Allianz's position with
02:21 PM19 regard to payment of that claim?

02:21 PM20 MR. PETER LEFKIN: Generally -- I mean, I am right now --
02:21 PM21 frankly, we are in the process of discussing that matter
02:21 PM22 between the International Commission and trying to
02:21 PM23 determine what type of procedures that will be put into
02:21 PM24 place for blocked accounts.

02:21 PM25 Under German law right now it is presumed to have

02:21 PM 1 been a valid payment. Nonetheless, we would be bound, not
 2 necessarily by German law, but on a voluntary humanitarian
02:21 PM 3 basis, by the results of what is discussed in the
02:21 PM 4 International Commission.
02:21 PM 5 COMMISSIONER SENN: So, have you taken a position at the
02:21 PM 6 International Commission?
02:21 PM 7 MR. PETER LEFKIN: No, because this issue hasn't arisen
02:21 PM 8 yet. At least I have not been party to --
02:21 PM 9 COMMISSIONER SENN: I would ask Mr. Brown if you've taken
02:21 PM10 a position.
02:21 PM11 MR. PETER LEFKIN: I have not been part of the
02:21 PM12 proceedings.
02:21 PM13 COMMISSIONER SENN: What is Allianz's position? Would you
02:21 PM14 please forward to us your position, Allianz's position, so
02:21 PM15 we will know?
02:21 PM16 MR. PETER LEFKIN: I would be delighted to do so.
02:21 PM17 COMMISSIONER SENN: What is Allianz's position regarding
02:21 PM18 any additional payments through ICHEIC on claims which may
02:21 PM19 have been partially paid in the past by government
02:21 PM20 supported or administered restitution programs in the
02:21 PM21 Republic of Germany?
02:22 PM22 MR. PETER LEFKIN: Allianz's legal supposition in Germany,
02:22 PM23 and, as I said, we are dealing with German law here, is
02:22 PM24 that all policy payments made are full and final. And
02:22 PM25 you've had in place in Germany for 60 years a very, very

02:22 PM 1 extensive restitution process, and payments have been made
02:22 PM 2 according to the restitution program provisions that were
02:22 PM 3 agreed to by the State of Israel, Germany, and the United
02:22 PM 4 States back in the fifties.
02:22 PM 5 COMMISSIONER SENN: So it is the position that those
02:22 PM 6 partially paid are not valid claims?
02:22 PM 7 MR. SIGURD BORGERSEN: I think the testimony was that
02:22 PM 8 there aren't partial payments.
02:22 PM 9 MR. PETER LEFKIN: There are no partial payments. Either
02:22 PM10 they have been paid or they have not been paid. And if
02:22 PM11 they have not been paid, of course they will be paid. And
02:22 PM12 if they have been paid, then they are deemed to be final.
02:22 PM13 That's the German law.
02:22 PM14 COMMISSIONER SENN: I have seen a policy paid here that
02:22 PM15 was paid under the restitution guidelines for a survivor
02:22 PM16 in the State of Washington in Germany. It was an Allianz
02:22 PM17 policy, and the policy I think probably in today's
02:23 PM18 negotiations would be worth about \$10,000, under the offer
02:23 PM19 as you said you had made. And he received \$1,000. It was
02:23 PM20 a very complex formula that was used, but one of the
02:23 PM21 things, as part of that policy they deducted for failure
02:23 PM22 to pay premiums while they were in the concentration camp.
02:23 PM23 So, I mean, I have very serious questions about that
02:23 PM24 restitution process and the level of which the survivors
02:23 PM25 were paid.

02:23 PM 1 MR. PETER LEFKIN: Those are issues you probably should
02:23 PM 2 bring up with Mr. Brown and the German regulatory
02:23 PM 3 authorities. What Allianz is paying is for policies
02:23 PM 4 pursuant to German law and agreements that were reached
02:23 PM 5 back in the 1950s. They have fulfilled their obligations.
02:23 PM 6 COMMISSIONER SENN: I have one final question. Here is my
02:24 PM 7 question, and maybe I register it as concern Mr. Lefkin,
02:24 PM 8 because it's something I think about in these
02:24 PM 9 deliberations.
02:24 PM10 I am assuming that when Mr. Brown testifies, he's
02:24 PM11 going to talk a little bit about the process, the slave
02:24 PM12 labor negotiations that have been going on, you know, the
02:24 PM13 German foundation initiative in Germany now, and I know
02:24 PM14 that Allianz's position has been to try to bring the
02:24 PM15 insurance claims under that process.
02:24 PM16 MR. PETER LEFKIN: Right.
02:24 PM17 COMMISSIONER SENN: And there have been -- and there is --
02:24 PM18 it is anticipated that that process will be capped by a
02:24 PM19 certain amount of money.
02:24 PM20 MR. PETER LEFKIN: That's correct.
02:24 PM21 COMMISSIONER SENN: Has it been capped already?
02:24 PM22 MR. PETER LEFKIN: Well, according to the agreements, and
02:24 PM23 you have seen them, as well as I have, Ms. Senn,
02:25 PM24 10,000,000 Deutch Marks for the average number. And this
02:25 PM25 is not an Allianz number. This is something that was

1 reached --

02:25 PM 2 COMMISSIONER SENN: This has to do with slave labor,

3 forced labor?

4 MR. PETER LEFKIN: Slave labor and Aryanization.

02:25 PM 5 COMMISSIONER SENN: Aryanization and a lot of different

02:25 PM 6 issues?

02:25 PM 7 MR. PETER LEFKIN: Right.

02:25 PM 8 COMMISSIONER SENN: If under the initiative -- and, by the

02:25 PM 9 way, let me just state for the record that we have grave

02:25 PM10 concerns about the insurance claims being settled under

02:25 PM11 this initiative, and I and many other commissioners are

02:25 PM12 concerned about it. I do not support it, okay, but let me

02:25 PM13 just propose this issue, because it is the one that we are

02:25 PM14 concerned about.

02:25 PM15 If you capped the claims in May of 2000, through

02:25 PM16 this initiative, and then Allianz finishes computerizing

02:25 PM17 those fragile files in a year, there is only a finite pool

02:26 PM18 of money available to those survivors, and if in a year

02:26 PM19 those 150,000 names are published, and let's not even

02:26 PM20 worry about those other 1.3 million, and some of those

02:26 PM21 claims are worth a lot more than what's in that capped

02:26 PM22 pool of money, what happens to the survivors?

02:26 PM23 MR. PETER LEFKIN: Well, it's a difficult issue, frankly,

02:26 PM24 we haven't anticipated. I mean, this is not an Allianz

02:26 PM25 proposal. This proposal has been -- frankly, the author

02:26 PM 1 belongs to the great statesman, Mr. Eizenstat, who has
02:26 PM 2 done a tremendous job, and has great moral authority to
02:26 PM 3 the German foundation initiative and to service the United
4 States Government.

02:26 PM 5 What I'm saying is he believes, and the people who
02:26 PM 6 have been negotiating in part of the German foundation
02:26 PM 7 initiative, which includes a broad variety of individuals,
02:26 PM 8 plaintiffs, plaintiff's attorney, representatives of major
02:26 PM 9 Jewish organizations and so forth, are really working on
02:26 PM10 the framework right now to insure that there is going to
02:26 PM11 be more than adequate money to be paid.

02:26 PM12 I can't respond to you conclusively whether or not
02:27 PM13 it's going to be adequate, and if I did, you wouldn't
02:27 PM14 believe me anyway. But you have people there who have an
02:27 PM15 interest in making certain that the amount of money that
02:27 PM16 is provided to insurance banks is adequate and, indeed,
02:27 PM17 more than adequate to fulfill the obligations of the
02:27 PM18 insurance companies.

02:27 PM19 COMMISSIONER SENN: Wouldn't it be logical to publish the
02:27 PM20 names before you cap the fund?

02:27 PM21 MR. PETER LEFKIN: Mr. Eizenstat clearly doesn't believe
02:27 PM22 so. I think probably -- you know, we take this -- how
02:27 PM23 many can do this 20 or 30 years, and, as I said, I can't
02:27 PM24 over estimate how difficult it is to compile going through
02:27 PM25 on a paper basis. We keep going back to this issue, and I

02:27 PM 1 prefer not to do so. But to do this.

02:27 PM 2 These people are old Ms. Senn. We want to bring

02:27 PM 3 money to them now, rather than wait for this exhaustive

4 archeological search and have hundreds of people in a room

02:27 PM 5 on any given day. That's why Mr. Eizenstat believes this

02:27 PM 6 is the approach that's best necessary. You should really

7 -- it's too bad Mr. Bindenagel is not here to explain the

02:27 PM 8 process, because he could do a much better job than I can.

02:27 PM 9 COMMISSIONER SENN: I believe that said your 800 number

02:27 PM10 first appeared -- the 800 number asking for claims first

02:28 PM11 appeared in late 1996 or early in 1997.

02:28 PM12 MR. PETER LEFKIN: Mid '97. April of '97.

13 COMMISSIONER SENN: April of '97?

02:28 PM14 MR. PETER LEFKIN: Right.

02:28 PM15 COMMISSIONER SENN: So between April of '97, and January

02:28 PM16 of 2000, Mr. Lefkin, let me just ask you this question.

02:28 PM17 This calls for a number, not an explanation. How many

02:28 PM18 claims has Allianz paid?

02:28 PM19 MR. PETER LEFKIN: There have been 18 offers of payment --

02:28 PM20 and don't try to put me on the spot, Ms. Senn, because I

02:28 PM21 know you wouldn't do that. The reason why, Ms. Senn, is

02:28 PM22 because of the fact that we have had a significant number

02:28 PM23 of inquiries. And I, again, go back to my earlier point

02:28 PM24 of testimony. The last 55 years in Germany this matter

02:28 PM25 has been resolved. This matter -- Allianz has been paying

02:28 PM 1 these claims and the German government has been paying
02:28 PM 2 these claims for 55 years. We are once again beginning a
02:28 PM 3 very exhaustive public outreach process in the beginning
02:28 PM 4 of February, and I am sure we will validate this same
02:29 PM 5 assertion. Public expectations are probably greater than
6 the reality.

02:29 PM 7 DEPUTY COMMISSIONER COOPERSMITH: So the answer is 18, to
02:29 PM 8 your knowledge?

02:29 PM 9 MR. PETER LEFKIN: The answer is frankly because
02:29 PM10 99-and-a-half percent of them have been paid previously.

02:29 PM11 DEPUTY COMMISSIONER COOPERSMITH: Mr. Lefkin, you can
02:29 PM12 expect a letter from the Commissioner's office setting out
02:29 PM13 exactly what the Commissioner would like from the company,
02:29 PM14 and a deadline will be set for that information.

02:29 PM15 MR. SIGURD BORGERSEN: Deputy Commissioner Coopersmith,
02:29 PM16 would you provide me with a copy? I have tried to keep
02:29 PM17 copious notes of the various documents we've referenced
18 here.

02:29 PM19 COMMISSIONER SENN: Yes. In fact, that's why we brought a
02:29 PM20 court reporter and a recording.

02:29 PM21 MR. SIGURD BORGERSEN: But it may take a while to get that
02:29 PM22 done, and if you wanted to provide me with a copy from
02:29 PM23 your notes, and then we could get started.

02:29 PM24 DEPUTY COMMISSIONER COOPERSMITH: Sure. Of course we can
02:29 PM25 work that out with Counsel.

1 COMMISSIONER SENN: Thank you, Mr. Lefkin. I appreciate
02:29 PM 2 your participation in coming here, and I hope you stay
02:30 PM 3 around. I'm sure I'll think of a question I haven't
02:30 PM 4 thought of.

02:30 PM 5 MR. PETER LEFKIN: I will be here, Ms. Senn.

02:30 PM 6 COMMISSIONER SENN: Let me do this. I know that we've
7 promised Mr. Thalmann that he would go next, because I
8 know he does have to catch a plane. I would like
9 Mr. Thalmann, and then I think we will probably go to
10 Bobby Brown, and then Generali. But I do need to ask the
11 court reporter if she needs a break. Let's take five
12 minutes.

13 (Short Recess.)

14

15 Testimony Of Winterthur Representatives

16

02:41 PM17 COMMISSIONER SENN: We want to get started. For the
02:41 PM18 record, would the representatives of Winterthur please
02:41 PM19 state your name?

02:41 PM20 MS. ANNE SMITH: Hi, my name is Anne Smith. I am legal
02:41 PM21 counsel for Winterthur in the United States. With me
22 today are Dr. Ulrich Thalmann, who is a Senior
02:41 PM23 Vice-President at Winterthur Life. He is a special
02:41 PM24 advisor to the Chairman and CEO of Winterthur on
02:41 PM25 World War II issues. He is also the leader of the

02:41 PM 1 Winterthur World War II Project. Also with me is Brian
02:41 PM 2 Kreger, a lawyer with the law firm of Ryan, Swanson &
3 Cleveland, and Mr. Kreger represents Winterthur on various
4 legal matters in the State of Washington.

02:41 PM 5 COMMISSIONER SENN: Welcome to Washington, Dr. Thalmann.
6 DR. ULRICH THALMANN: Thank you.

02:41 PM 7 COMMISSIONER SENN: Let me first mention two things. As
02:42 PM 8 many in the room don't know, Winterthur is the parent
02:42 PM 9 company of Uniguard Insurance, and -- am I wrong?

02:42 PM10 MS. ANNE SMITH: That's correct.

02:42 PM11 COMMISSIONER SENN: And Unigard is domiciled here in the
02:42 PM12 State of Washington. Winterthur came to see us about six
02:42 PM13 years ago when Unigard became domiciled, and I just want
02:42 PM14 to mention to you we have a Winterthur claimant -- I don't
02:42 PM15 know if you know that -- who is 90 years old, and who was
02:42 PM16 planning to come today but has the flu. So hopefully he
02:42 PM17 will be much better and he stayed home.

02:42 PM18 I am, of course, aware that Winterthur has a
02:42 PM19 smaller book of business in pre-war Europe. So why don't
02:42 PM20 we start out by -- well, maybe you want to make a
02:43 PM21 statement.

02:43 PM22 MS. ANNE SMITH: Could I please ask you to provide us with
02:43 PM23 the name of that claimant so that we can do what we can to
02:43 PM24 handle that claim?

02:43 PM25 MR. MARVIN STERN: Yes.

02:43 PM 1 COMMISSIONER SENN: We're going to put it through
02:43 PM 2 Fast-Track. We'll determine it, and we'll give you the
02:43 PM 3 information.
02:43 PM 4 MS. ANNE SMITH: Okay.
02:43 PM 5 DR. ULRICH THALMANN: May I add that it must be a new
02:43 PM 6 claim, because if it's in the Fast-Track process, as of
02:43 PM 7 December 10th we wouldn't have had a claimant from
02:43 PM 8 Washington State.
02:43 PM 9 COMMISSIONER SENN: Well, we'll talk afterwards and let me
02:43 PM10 determine it.
02:43 PM11 DR. ULRICH THALMANN: All right.
02:43 PM12 COMMISSIONER SENN: Because we haven't -- I haven't had a
02:43 PM13 chance to talk to my staff about what the claimant wants
02:43 PM14 to do with regards to submitting that. And so let me just
02:43 PM15 do that and then give you the information if we can as
02:43 PM16 quickly as possible.
02:43 PM17 Did you want to say anything? I was going to the
02:43 PM18 questions right away.
02:43 PM19 DR. ULRICH THALMANN: Please, yes.
02:44 PM20 COMMISSIONER SENN: Questions. How many -- we will start
02:44 PM21 with the Fast-Track process, as we did with Allianz. How
22 many Holocaust claims has your company handled through the
02:44 PM23 ICHEIC, I guess the International Commission is also know
02:44 PM24 as the ICHEIC, for people -- through the ICHEIC Fast-Track
02:44 PM25 process?

02:44 PM 1 DR. ULRICH THALMANN: Through the Fast-Track process of
02:44 PM 2 the ICHEIC, Winterthur has received and handled one claim.
02:44 PM 3 COMMISSIONER SENN: What has been the results of the one
02:44 PM 4 claim?
02:44 PM 5 DR. ULRICH THALMANN: It's a claim of a claimant resident
02:44 PM 6 in Florida. The insurance regulator in Florida is well
02:44 PM 7 aware of the claim -- or I should say the assistant --
02:44 PM 8 Ms. Asher Cohen -- to the insurance regulator, she is well
02:45 PM 9 aware, because we have been in contact with her and with
02:45 PM10 the claimant.
02:45 PM11 The company, based on the documentation provided,
02:45 PM12 has not been able to make a payment offer. We have
02:45 PM13 declined the claim so far on the basis of documents
02:45 PM14 provided. I should add, also, on the basis documents that
02:45 PM15 the claimant did not submit to us but that were eventually
02:45 PM16 available to us out of the German restitution proceedings.
02:45 PM17 But the claimant is of the opinion that he may
02:45 PM18 have yet other evidence which would prove a claim, and we
02:45 PM19 are in -- we have offered to come to visit him in Florida
02:45 PM20 and sit down with him to see and review these documents.
02:46 PM21 COMMISSIONER SENN: Let me ask you, what was the size of
02:46 PM22 your book of business between 1938 and 1944 in Europe?
02:46 PM23 DR. ULRICH THALMANN: Winterthur Life was founded in the
02:46 PM24 mid-twenties, and a few years later entered into Germany,
02:46 PM25 which, of course, Winterthur Life was a foreign market,

02:46 PM 1 and at the end of World War II, Winterthur Life in Germany
02:46 PM 2 had about 15,000 policies in force.

02:46 PM 3 COMMISSIONER SENN: Have you provided the International
02:46 PM 4 Commission with a list of those policy holder names?

02:46 PM 5 DR. ULRICH THALMANN: No.

02:46 PM 6 COMMISSIONER SENN: Why not?

02:47 PM 7 DR. ULRICH THALMANN: First of all, because the
02:47 PM 8 International Commission has not established that the
02:47 PM 9 companies should provide policy holder names to them.
02:47 PM10 However, the International Commission has established an
02:47 PM11 audit mechanism with a number of auditing standards, under
02:47 PM12 which the auditors have full, free access to all files of
02:47 PM13 the companies and will report to the International
02:47 PM14 Commission on how the company is handling these files and
02:47 PM15 on any of the points that are in this or the standards.
02:47 PM16 These standards could certainly be made available to you.

02:47 PM17 But if I may add -- excuse me -- the reason that
02:47 PM18 it was established in this way in this proceeding was
02:47 PM19 because handing over the entire books of business would
02:48 PM20 have created a major problem of conflict between two legal
02:48 PM21 systems and the International Commission, and I guess you
02:48 PM22 were involved also in these discussions, to trying to find
02:48 PM23 a way around it and still fulfill the purpose of and the
02:48 PM24 main goal of the International Commission. So there is no
02:48 PM25 requirement under the International Commission that we

02:48 PM 1 should turn over old books of business under any of the
02:48 PM 2 countries where we operate.

02:48 PM 3 COMMISSIONER SENN: I have to say, Mr. Thalmann, this was
02:48 PM 4 not my understanding. In fact, it was my understanding
02:48 PM 5 that on September 15, 1999, that companies were supposed
02:48 PM 6 to turn over the policy holder list to the International
02:48 PM 7 Commission, and out of that requirement arose the
02:48 PM 8 discussion of whether or not Allianz would turn over the
02:48 PM 9 150,000 names. But I am unaware of any decision to
02:49 PM10 abandon the effort to get the policy holder list.

02:49 PM11 Number 2, as read to MR. PETER LEFKIN and I will
02:49 PM12 repeat it, the MOU envisions the release of policy holder
02:49 PM13 names. So it's not my understanding, nor does it comport
02:49 PM14 with our law that the International Commission is not
02:49 PM15 asking for names. I mean, they are about to publish the
02:49 PM16 names on a Generali disk, which we will hear about later,
02:49 PM17 and we have an agreement on 150,000 names for Allianz, and
02:49 PM18 so publication of names seems to be moving forward.

02:49 PM19 DR. ULRICH THALMANN: I tried to be -- to try -- I tried
02:49 PM20 to be very clear in how I think the MOU came about with
02:49 PM21 regard to this provision that you have cited, addressing
02:49 PM22 the issue of publication of names. The words -- the use
02:49 PM23 of the words "address the issue of publication of names"
02:50 PM24 was and is in the MOU, because at the time the MOU was
02:50 PM25 signed there was no agreement as to whether names should

02:50 PM 1 and would be published or not. It was therefore the only
02:50 PM 2 way in which we could reach and sign the MOU that we said
02:50 PM 3 that all of us said okay, we will address the issue
02:50 PM 4 somewhere down the road.

02:50 PM 5 And this also explains that it came about in the
02:50 PM 6 continuing discussions of the ICHEIC at a later stage.
02:50 PM 7 That's the first attempt of the clarification.

02:50 PM 8 Secondly, publication of names and publication of
02:50 PM 9 lists has always concentrated on being understood with
02:50 PM10 reference to unpaid policies, but not to full books of
02:50 PM11 policy holders.

02:51 PM12 COMMISSIONER SENN: We asked in our questions to you how
02:51 PM13 you defined an unpaid policy.

02:51 PM14 DR. ULRICH THALMANN: Yes. Again, the way we define it
02:51 PM15 and the way we have always treated unpaid policies is that
02:51 PM16 it is policies where the company has not paid either to
02:51 PM17 the insured or the beneficiary or has been paid on request
02:51 PM18 -- on a legal request under the policy. And of course
02:51 PM19 that addresses the issue of confiscation. Confiscation
02:51 PM20 has been, again, a very difficult issue in the discussions
02:52 PM21 of the Commission, because clearly there is a difference
02:52 PM22 between policies that may have been paid by the insurer,
02:52 PM23 but may not have been received by the original contract
02:52 PM24 beneficiary.

02:52 PM25 So we started distinguishing between unpaid and

02:52 PM 1 unreceived policies. We have within the MOU reached
02:52 PM 2 agreement that in all cases of confiscation it is
02:52 PM 3 acknowledged and recognized that there is no legal
02:52 PM 4 obligation anymore of the companies to pay because they
02:52 PM 5 have already paid once on requests of the then legal
02:52 PM 6 government, but that the companies would make a
02:52 PM 7 humanitarian payment in all those cases, and in this
02:52 PM 8 respect of confiscated policies it is, of course, the
02:53 PM 9 signature to the MOU means that we complied with this
02:53 PM10 provision of the MOU in the ICHEIC which says that we made
02:53 PM11 a humanitarian payment without acknowledging a legal
02:53 PM12 obligation.

02:53 PM13 COMMISSIONER SENN: First, Mr. Thalmann, let me say this.
02:53 PM14 We have case law that states -- which establishes that if
02:53 PM15 you don't pay a bank account or an insurance policy to the
02:53 PM16 beneficiary or to the one who is legally entitled to the
02:53 PM17 proceeds and you paid it to the confiscator, you are still
02:53 PM18 liable. So we have law to that effect and case law to
02:53 PM19 that effect, which I personally read myself, number 1.
02:53 PM20 But number 2, I am a signatory to the MOU, and that
02:53 PM21 decision and that conclusion which you are pauciting here
02:53 PM22 was nowhere in the air when the MOU was signed with regard
02:54 PM23 to blocked or confiscated accounts.

02:54 PM24 DR. ULRICH THALMANN: Am I allowed to read from the
02:54 PM25 provision?

02:54 PM 1 COMMISSIONER SENN: Yes. If you contradict me, that would
02:54 PM 2 be fine.

02:54 PM 3 DR. ULRICH THALMANN: In article 8A2, it says that in
02:54 PM 4 addition each signatory company agrees to make an
5 equitable contribution -- and equitable contribution.

02:54 PM 6 COMMISSIONER SENN: Give me the section again, please,
7 Mr. Thalmann.

02:54 PM 8 DR. ULRICH THALMANN: It's 8, then the letter A, and then
02:54 PM 9 the number 2.

10 COMMISSIONER SENN: 8A2?

02:54 PM11 DR. ULRICH THALMANN: Yes, on page 3. On the bottom of
02:54 PM12 page 3.

02:54 PM13 COMMISSIONER SENN: You are just referencing the
14 humanitarian part?

02:54 PM15 DR. ULRICH THALMANN: It is under the specific
02:54 PM16 humanitarian section.

02:54 PM17 COMMISSIONER SENN: Yes.

02:54 PM18 DR. ULRICH THALMANN: And it says that, in addition, each
02:55 PM19 signatory company agrees to make -- I should first say
02:55 PM20 that on the first part of this paragraph it deals with
02:55 PM21 companies that cannot be identified or are no longer in
02:55 PM22 existence. There again, of course, it's clear that the
02:55 PM23 MOU companies feel that they are not obliged to pay for
02:55 PM24 any other company that has disappeared or that cannot be
02:55 PM25 identified, but agreement was reached to make a

02:55 PM 1 humanitarian contribution in those claims so that those
2 claims would have at least received something.

02:55 PM 3 DEPUTY COMMISSIONER COOPERSMITH: Mr. Thalmann, I believe
02:55 PM 4 the Commissioner's questions were directed towards
02:55 PM 5 identifying your claimants. You have said that only one
02:55 PM 6 claim has been submitted to the company under the
02:55 PM 7 Fast-Track process. But can you tell us what affirmative
02:55 PM 8 steps the company has taken to try to identify Holocaust
02:55 PM 9 claimants and then pay those claims?

02:55 PM10 DR. ULRICH THALMANN: Does it mean that I would not have
02:56 PM11 to answer regarding confiscation?

02:56 PM12 COMMISSIONER SENN: No. Let me just say -- here is where
02:56 PM13 we're going. I asked him to define how a claim -- what a
02:56 PM14 paid claim is and an unpaid claim. You define a
02:56 PM15 confiscated claim as a paid claim in reference to the MOU,
02:56 PM16 and I still see no such reference in the MOU.

02:56 PM17 But nonetheless, I was going through a process to
02:56 PM18 try to determine of the 15,000 policies, what you have
02:56 PM19 told me is that most of them were paid, and I was going to
02:56 PM20 ask what your definition of paid is, because I think we
02:56 PM21 have different views of what the definition of paid is.

02:56 PM22 So we got off on that little tangent, so let's go
02:56 PM23 back and try to reconstruct the original question.

02:56 PM24 Of the 15,000, how many are paid -- how many were
02:57 PM25 paid?

02:57 PM 1 DR. ULRICH THALMANN: The 15,000 that I have mentioned,
02:57 PM 2 let's make it clear that refers to book of business in
02:57 PM 3 force of life insurance in Germany of Winterthur Life.
02:57 PM 4 COMMISSIONER SENN: Just Germany?
02:57 PM 5 DR. ULRICH THALMANN: Just Germany.
6 COMMISSIONER SENN: What about the --
02:57 PM 7 DR. ULRICH THALMANN: Winterthur Life had business in
02:57 PM 8 other countries, of course.
02:57 PM 9 COMMISSIONER SENN: In Europe -- in pre-War Europe how
02:57 PM10 many policies total?
02:57 PM11 DR. ULRICH THALMANN: I'm sorry, I cannot give you this
02:57 PM12 answer out, just without going back and check. All I can
02:57 PM13 say is that Winterthur Life has equally small market
02:57 PM14 shares in France and in Belgium, which were the other two
02:57 PM15 countries outside Germany where Winterthur Life operated.
02:57 PM16 Winterthur -- not Winterthur Life, but Winterthur's
02:57 PM17 parent, which is Credit Suisse, has recently acquired a
02:57 PM18 majority stake in another German company, and that is what
02:58 PM19 you would, in English, describe as government employees
02:58 PM20 insurance company. There is an equitable in Germany that
02:58 PM21 was -- the majority was acquired by us at the end of last
02:58 PM22 year. And if I refer to Germany, I explicitly -- and
02:58 PM23 that's why I said it -- I explicitly refer to Winterthur
24 Life.
02:58 PM25 With regard to government employee insurance

02:58 PM 1 company, again, I cannot give you that figure. Of course,
02:58 PM 2 I could provide you that figure pretty fast after
02:58 PM 3 returning to Switzerland.

02:58 PM 4 COMMISSIONER SENN: All right. Let me go back to the
02:58 PM 5 French and the Belgium policies. So 15,000 in Germany.
02:58 PM 6 So 15,000 in France, and 15,000 in Belgium, and any idea?

02:58 PM 7 DR. ULRICH THALMANN: I may please ask you not to pin me
02:58 PM 8 down on any figures. I cannot give you. It is in this
02:59 PM 9 magnitude. It's in the same magnitude, but I really would
02:59 PM10 have to go back and to check the numbers, and I would
02:59 PM11 rather give you the exact numbers after returning to
02:59 PM12 Switzerland, if that is agreeable to you.

02:59 PM13 COMMISSIONER SENN: Obviously, you will have to do that.
02:59 PM14 I am actually surprised that you don't know what your book
02:59 PM15 of business was in Europe, given your participation in the
02:59 PM16 International Commission. But please supply it to us.

02:59 PM17 So let's talk about the 15,000 policies in
02:59 PM18 Germany. How many of those are paid and how many unpaid?

02:59 PM19 DR. ULRICH THALMANN: It is my strong assumption that they
02:59 PM20 all were paid. I can give you the details on these three
02:59 PM21 countries that I have mentioned with regard to Winterthur
03:00 PM22 Life as to the amount of the policies that we found -- or
03:00 PM23 I should rather say based on the amount of claims that
03:00 PM24 were made and led to a situation where we had reason to
03:00 PM25 believe, perhaps, they were not paid.

03:00 PM 1 COMMISSIONER SENN: Okay.

03:00 PM 2 DR. ULRICH THALMANN: If you would allow me to go to a

03:00 PM 3 written letter, because that's a figure that is subject to

03:00 PM 4 change. Winterthur had over and since the whole issue

03:00 PM 5 became known in the public, inquiries in the amount of

03:00 PM 6 about 4,000 and a few hundred. Most of these inquires

03:00 PM 7 were not directed to Winterthur but were indirect, and out

03:00 PM 8 of these we had 145 inquires directed to Winterthur.

03:01 PM 9 And let me now make it clear that this is not the

03:01 PM10 Fast-Track claims process. It includes that one

03:01 PM11 Fast-Track case, but it's just all the claims that we

03:01 PM12 received outside the Fast-Track proceeding.

03:01 PM13 And of these cases, we had 36 cases where we have

03:01 PM14 reason to believe that a contractual relationship existed,

03:01 PM15 and if I say that, we have reason to believe it is because

03:01 PM16 it is based on the very relaxed standards of proof that

03:01 PM17 have been established within the International Commission

03:01 PM18 and to which we adhere.

03:01 PM19 So in those 36 cases where a policy may have

03:01 PM20 existed at some point of time, in nine cases out of these

03:01 PM21 36 claimants were Holocaust victims.

22 COMMISSIONER SENN: How many? Nine?

03:02 PM23 DR. ULRICH THALMANN: Nine out of 36.

24 COMMISSIONER SENN: Okay.

03:02 PM25 DR. ULRICH THALMANN: And I am prepared to give you --

03:02 PM 1 because it's a very small number -- to give you details of
03:02 PM 2 these nine cases, if you should ask for it.

03:02 PM 3 COMMISSIONER SENN: Go ahead.

03:02 PM 4 DR. ULRICH THALMANN: To the status of these claims, two
03:02 PM 5 claims have been settled with a payment to the claimant,
03:02 PM 6 six claims have been declined, and one claim is pending.

03:02 PM 7 In other words, an offer has been made, and their reply
03:02 PM 8 has not yet been received.

03:02 PM 9 And I could also, if that is of interest, give you
03:02 PM10 the origin, the geographic origin of the policy and of the
03:03 PM11 residence of the claimant.

03:03 PM12 COMMISSIONER SENN: I'm sorry. Go ahead. What did you
03:03 PM13 say?

03:03 PM14 DR. ULRICH THALMANN: Again, out of these nine Holocaust
03:03 PM15 related claims, I could give you where they came from, in
03:03 PM16 terms of where was the original policy purchased and where
03:03 PM17 is the claimant's residence today.

03:03 PM18 COMMISSIONER SENN: Sure.

03:03 PM19 DR. ULRICH THALMANN: And that's why my question in the
03:03 PM20 beginning that I wasn't aware of a claim from Washington
03:03 PM21 State, because in this list I am unaware of any.

03:03 PM22 First, was the policy issues we had five policies
03:03 PM23 issued in Germany, two in Switzerland, one in Belgium, one
03:03 PM24 in France.

03:03 PM25 And, again, if I mentioned Switzerland, it is

03:04 PM 1 because it includes all claimants. It does not only
03:04 PM 2 include Jewish Holocaust victims.

03:04 PM 3 COMMISSIONER SENN: All right.

03:04 PM 4 DR. ULRICH THALMANN: As to the residence of the claimant,
03:04 PM 5 we have one, two, three, four New York, one is now a
03:04 PM 6 resident in Switzerland, one in Brazil, one in France and
03:04 PM 7 one, as it is put here in Germany and Israel.

03:04 PM 8 COMMISSIONER SENN: Okay, you said 4,000 inquires, and so
03:04 PM 9 of 4,000 inquires, only 145 were Winterthur policies?

03:04 PM10 DR. ULRICH THALMANN: No, only 145 were directly addressed
03:04 PM11 to Winterthur. All the other came, for example, through
03:04 PM12 associations or from other insurance companies. Because
03:04 PM13 once a claim is addressed to an insurance company, the
03:05 PM14 company has reason to believe it maybe belong to another
03:05 PM15 company, so the circulation process starts, and you
03:05 PM16 wouldn't see the same claim showing up ultimately in all
03:05 PM17 of the insurance companies who are involved in this
03:05 PM18 process.

03:05 PM19 Equally, associations would send the name of
03:05 PM20 claimants who do not give a specific company name to all
03:05 PM21 companies.

03:05 PM22 COMMISSIONER SENN: So my question, though, was out of
03:05 PM23 15,000 policies, you said all of them have been paid
03:05 PM24 basically under your definition of what is paid?

03:05 PM25 DR. ULRICH THALMANN: Yes.

03:05 PM 1 COMMISSIONER SENN: Do you know how many of the 15,000
03:05 PM 2 were paid because they were confiscated or in blocked
03:05 PM 3 accounts?
03:05 PM 4 DR. ULRICH THALMANN: No, I cannot give you that answer.
03:06 PM 5 MR. BRIAN KREGER: Actually, Mr. Thalmann said he assumed
03:06 PM 6 that all 15,000 were paid. He was not basing that on
03:06 PM 7 actual data.
03:06 PM 8 DEPUTY COMMISSIONER COOPERSMITH: What is the assumption
9 based on?
03:06 PM10 MR. BRIAN KREGER: On the fact that there were no
03:06 PM11 outstanding claims when they started this process, so then
03:06 PM12 the assumption was that the claims had been paid.
03:06 PM13 DEPUTY COMMISSIONER COOPERSMITH: But, again, those are
03:06 PM14 only claims that were brought to your attention, correct?
03:06 PM15 MR. BRIAN KREGER: That's correct.
03:06 PM16 DR. ULRICH THALMANN: That's correct.
03:06 PM17 DEPUTY COMMISSIONER COOPERSMITH: So as to the question of
03:06 PM18 what steps the company has taken on its own to identify
03:06 PM19 outstanding Holocaust claims --
03:06 PM20 DR. ULRICH THALMANN: These claims have been taken in line
03:06 PM21 with what has developed within the International
03:06 PM22 Commission as what the proceedings should be to publish
03:06 PM23 lists of the country's policies.
03:06 PM24 And if I may give you an example, first, I should
03:06 PM25 say we have Winterthur Life in Germany, in France, and in

03:07 PM 1 Belgium. Those are the three countries that at one time
03:07 PM 2 were subject to Nazi government. In all these three
03:07 PM 3 countries have been made a search in the portfolio of
03:07 PM 4 Winterthur Life, and in determining whether the policy was
03:07 PM 5 paid or not paid, of course, in some cases we had reserves
03:07 PM 6 which were carried for all unpaid cases, as long as the
03:07 PM 7 case will not be paid. I should perhaps try to give some
03:07 PM 8 explanation. Contrary to the situation which has arisen
03:07 PM 9 with the Swiss banks, when a policy, a life insurance
03:08 PM10 policy comes to its expiration date there is an incentive
03:08 PM11 for the life insurance company to pay, because -- and I
03:08 PM12 can say that because I have made that experience as an
03:08 PM13 agent early on -- the company wants to do business again,
03:08 PM14 and maybe out of the payment includes, for example, an
03:08 PM15 annuity policy. So there is a mechanism in our company,
03:08 PM16 and I am sure also in others, that when it comes to the
03:08 PM17 expiration term, attempts are made to actually find and
03:08 PM18 identify the policy holder and to pay.

03:08 PM19 Now, there are cases, however, where you do not
03:08 PM20 find -- for whatever reason, people may have immigrated
03:08 PM21 or, for whatever reason, you cannot find the policy
03:08 PM22 holder, and then we carry -- at that time and still we
03:08 PM23 carried the reserve, because the claim has not been paid,
03:08 PM24 and in a certain interval a search will take place again.
03:09 PM25 So based on these reserves, we could also found out that

03:09 PM 1 most of these cases were eventually paid, not at the time
03:09 PM 2 when it should have been paid, but sometime later.

03:09 PM 3 It remains a number of cases where we cannot
03:09 PM 4 establish with all clarity that a payment was made,
03:09 PM 5 because you should appreciate that our archives and files
03:09 PM 6 are not complete. And in those cases, there were a few
03:09 PM 7 cases in all three countries we have established that in
03:09 PM 8 cases of doubt, the doubt should be for the benefit of the
03:09 PM 9 claimant, and those are the names that, as of today, we
03:09 PM10 still carry as unpaid policies.

03:09 PM11 DEPUTY COMMISSIONER COOPERSMITH: But, Mr. Thalmann, we
03:09 PM12 need you to be more specific about the steps you took with
03:09 PM13 regard to these particular claims. For example, you
03:10 PM14 stated that you published the names of unpaid policies, is
03:10 PM15 that correct?

03:10 PM16 DR. ULRICH THALMANN: No, I did not say that we published.
03:10 PM17 We have made them ready for publication.

18 DEPUTY COMMISSIONER COOPERSMITH: Made them ready for
19 publication?

03:10 PM20 DR. ULRICH THALMANN: Yes, for publication through the
03:10 PM21 International Commission.

03:10 PM22 DEPUTY COMMISSIONER COOPERSMITH: So as of this date, you
03:10 PM23 haven't published any of the names of the unpaid policy
03:10 PM24 holders, is that correct?

03:10 PM25 DR. ULRICH THALMANN: There has a publication very early

03:10 PM 1 on. That was a publication -- it was before I was
03:10 PM 2 actually having this assignment, and it was a list of, if
03:10 PM 3 I recall correctly, about six names that were given to the
03:10 PM 4 East Coast, and I think the one in Los Angeles, if I am
03:10 PM 5 correct. Mr. Kadden, you nodded. You seem to maybe
03:10 PM 6 recall. And these names were not by Winterthur, but they
03:10 PM 7 were -- they were then published, as I recall, by the
03:11 PM 8 Simon Wiesenthal Center, and I think they put them on the
03:11 PM 9 internet.

03:11 PM10 DEPUTY COMMISSIONER COOPERSMITH: Mr. Thalmann, what's the
03:11 PM11 size of the policy holders that you say you prepared for
03:11 PM12 publication, according to the International Commission
03:11 PM13 process?

03:11 PM14 DR. ULRICH THALMANN: May I ask you size of policy
03:11 PM15 holders --

03:11 PM16 DEPUTY COMMISSIONER COOPERSMITH: Right. The number.

03:11 PM17 COMMISSIONER SENN: The size of the list.

03:11 PM18 DR. ULRICH THALMANN: The number of the list?

03:11 PM19 DEPUTY COMMISSIONER COOPERSMITH: Yes, please.

03:11 PM20 DR. ULRICH THALMANN: It refers to the operations of
03:11 PM21 Winterthur Life in Germany, in France, and in Belgium.
03:11 PM22 For Germany there are two names,. For France there are
03:12 PM23 six names, and for Belgium there is one name.

03:12 PM24 COMMISSIONER SENN: So you prepared for publication by the
03:12 PM25 International Commission nine names?

03:12 PM 1 DR. ULRICH THALMANN: That is correct, as all of search
03:12 PM 2 that we have been able to make so far for Winterthur Life,
03:12 PM 3 yes.

03:12 PM 4 COMMISSIONER SENN: You are aware that our statute
03:12 PM 5 requires you to give my office a list of all policy
03:12 PM 6 holders for policies in effect from 1933, to 1945?

03:12 PM 7 DR. ULRICH THALMANN: I'm aware of that, yes.

03:12 PM 8 COMMISSIONER SENN: And are you prepared to give us that
03:12 PM 9 list?

03:12 PM10 DR. ULRICH THALMANN: I must tell you that we have
03:12 PM11 submitted that question regarding transferring personal
03:12 PM12 data out of Switzerland to the Swiss authorities, because
03:12 PM13 we want to make sure that we are not in violation by any
03:12 PM14 of the Swiss laws in doing so. And so far this
03:13 PM15 correspondence took place in early December last year, and
03:13 PM16 we are so far not yet in possession of a clear answer as
03:13 PM17 to yes or no.

03:13 PM18 What I can tell you, and I'm -- in my new found
03:13 PM19 legal situation, I think we have clearly a legal conflict
03:13 PM20 and potential a conflict here between two sovereign states
03:13 PM21 that we would have to resolve if we were to hand over
03:13 PM22 these full books of business of all policy holders' names
03:13 PM23 in all lines of business. And because I recall this was
03:13 PM24 one of the purposes or one of the issues that we tried to
03:13 PM25 deal with in the International Commission and to come

03:14 PM 1 around by establishing the procedures that we have
03:14 PM 2 established in the International Commission.

03:14 PM 3 DEPUTY COMMISSIONER COOPERSMITH: Mr. Thalmann, is there
03:14 PM 4 anything other than Swiss law that is keeping Winterthur
03:14 PM 5 from submitting the names of its policy holders to the
03:14 PM 6 Insurance Commissioner of this state?

03:14 PM 7 DR. ULRICH THALMANN: There may be, because you are aware
03:14 PM 8 that we are a company that happens to have its head office
03:14 PM 9 in Switzerland, but we are talking about different
03:14 PM10 countries, about France and Belgium and Germany, and all
03:14 PM11 of these countries have their specific laws regarding the
03:14 PM12 protection of personal data. And I might perhaps suggest
03:14 PM13 that with regard to France and Belgium, Mr. Ferras, who
03:15 PM14 will testify later, would be in a better position than I
03:15 PM15 am to reply for these countries.

03:15 PM16 I can give you the reply for Switzerland, at least
03:15 PM17 with regard to which laws are involved. There is, on one
03:15 PM18 hand, the penal law or criminal law, criminal code -- is
03:15 PM19 probably the word.

03:15 PM20 DEPUTY COMMISSIONER COOPERSMITH: Yes.

03:15 PM21 DR. ULRICH THALMANN: On the other hand, there is a
03:15 PM22 specific data protection law in Switzerland.

03:15 PM23 DEPUTY COMMISSIONER COOPERSMITH: So are you aware if
03:15 PM24 Winterthur has made a similar inquiry of French, Belgium
03:15 PM25 and German authorities regarding the submission of the

03:15 PM 1 lists for Insurance Commissioner Senn?

03:15 PM 2 DR. ULRICH THALMANN: For practical considerations within

03:15 PM 3 the MOU, we, among the companies, so to speak, divided the

03:15 PM 4 job. For France and for Belgium Axa has put themselves in

03:15 PM 5 contact with the authorities, and clearly the reply given

03:16 PM 6 to Axa would be -- it is applicable to any other company

03:16 PM 7 operating in France.

03:16 PM 8 The same is true for Germany. And with regards to

03:16 PM 9 Switzerland, we have done the job obviously ourselves, and

03:16 PM10 that is the request that we made in Switzerland to the

03:16 PM11 Swiss government in last December.

03:16 PM12 COMMISSIONER SENN: Let me see if I can -- help me out

03:16 PM13 here, Mr. Thalmann. Did Winterthur merge with Credit

14 Swiss?

03:16 PM15 DR. ULRICH THALMANN: Winterthur was taken over by Credit

03:16 PM16 Swiss -- I'm trying to remember the date, but more than a

17 few years ago.

03:16 PM18 COMMISSIONER SENN: So that's a Swiss bank?

19 DR. ULRICH THALMANN: Pardon me?

20 COMMISSIONER SENN: That's a Swiss bank?

21 DR. ULRICH THALMANN: That is a Swiss bank, yes.

03:16 PM22 COMMISSIONER SENN: And Swiss banks have searched the

03:16 PM23 records pursuant to the Volcker Commission and published

03:16 PM24 the names of dormant bank accounts, isn't that correct?

25 DR. ULRICH THALMANN: That is correct.

03:16 PM 1 COMMISSIONER SENN: And in order for them to do that, the
03:16 PM 2 Swiss banks went and changed the privacy laws in
03:17 PM 3 Switzerland, did they not?
03:17 PM 4 DR. ULRICH THALMANN: May I say that I believe the law had
03:17 PM 5 to be changed or a special law had to be issued in order
03:17 PM 6 to do that, and it was done with regards to the dormant
03:17 PM 7 accounts. It was not done with regard to the full book,
03:17 PM 8 as we would say, you know, the full list of account
03:17 PM 9 holders of any of these events involved. And I think in
03:17 PM10 comparison here, we tried that we can publish the lists of
03:17 PM11 unpaid insurance policies, which I might compare to the
03:17 PM12 dormant accounts. However, I think it would be much more
03:17 PM13 difficult to reach any solution with regard to publication
03:17 PM14 or transfer out of European countries of old lists of all
03:18 PM15 the policy holders.
03:18 PM16 COMMISSIONER SENN: I guess I have to make this very
03:18 PM17 clear, Mr. Thalmann. I understand your comparison. But
03:18 PM18 it seems to me that we would be very happy to not have the
03:18 PM19 publication of paid accounts if we had confidence in the
03:18 PM20 fact that they were paid. It would appear that we differ
03:18 PM21 on the definition of what is paid and what is unpaid,
03:18 PM22 number 1. And number 2, I guess I just want to point out
03:18 PM23 the fact that the Swiss banks did take up the effort and
03:18 PM24 do whatever was necessary to overcome the privacy
03:18 PM25 restrictions to get the names published. And what is

03:18 PM 1 significant here is that the Washington State Law says
03:18 PM 2 that if you want to do business in this state you must
03:18 PM 3 provide a list of policy holder names from that period of
03:18 PM 4 time.

03:19 PM 5 And I guess the question is will Winterthur be
03:19 PM 6 prepared to provide that to the State of Washington, to my
03:19 PM 7 office pursuant to what the law says, because right now
03:19 PM 8 what I'm hearing is that you've determined what is paid
03:19 PM 9 and what is unpaid, and you haven't turned the names over
03:19 PM10 to the International Commission, and so I don't see how
03:19 PM11 their process will be satisfactory for our purposes.

03:19 PM12 DR. ULRICH THALMANN: I think with regards to the unpaid
03:19 PM13 policies, let me take issue first, it is a matter of weeks
03:19 PM14 until the outreach claims out of the Commission shall be
03:19 PM15 launched, and part of that outreach program is, in fact,
03:19 PM16 the publication of the list of unpaid policies.

03:19 PM17 What is said with regard to the disagreement of
03:19 PM18 unpaid or paid, of course that exists, but it refers
03:20 PM19 basically to the confiscation issue, and there I made
03:20 PM20 reference to the fact that it is part of the commitment
03:20 PM21 under the MOU that confiscation policies are not paid in
03:20 PM22 full, but a humanitarian payment is made for that.

03:20 PM23 Going back now to the unpaid list, I do also bear
03:20 PM24 this, of course, the issue involved of whether, based on
03:20 PM25 the different European laws, we are allowed to publish.

03:20 PM 1 But I can tell you that we make every effort to get the
03:20 PM 2 permission from the Swiss, the Belgium, the French, and
03:20 PM 3 the German authorities to publish.

03:20 PM 4 I can tell you, and, as I said, maybe it's better
03:20 PM 5 to ask more in detail our representative from the Axa, but
03:20 PM 6 so far the answer in France and Belgium is strictly no.

03:21 PM 7 DEPUTY COMMISSIONER COOPERSMITH: Mr. Thalmann, you are
03:21 PM 8 aware of the confidentiality provision of the Washington
03:21 PM 9 State Law?

03:21 PM10 DR. ULRICH THALMANN: No, I am not.

03:21 PM11 DEPUTY COMMISSIONER COOPERSMITH: You are not aware of
12 that?

13 DR. ULRICH THALMANN: No.

03:21 PM14 DEPUTY COMMISSIONER COOPERSMITH: You have two counsel
03:21 PM15 flanking you, and they haven't informed you of that
03:21 PM16 provision of the applicable law here?

03:21 PM17 MR. BRIAN KREGER: What's your point, Deputy Commissioner
18 Coopersmith?

03:21 PM19 DEPUTY COMMISSIONER COOPERSMITH: The point is that under
03:21 PM20 the law that is at issue here, the law that Commissioner
03:21 PM21 Senn is acting under in trying to determine whether
03:21 PM22 Winterthur is acting in good faith there is a
03:21 PM23 confidentiality provision that allows her to keep the
03:21 PM24 documentation that she requests confidential, if, in fact,
03:21 PM25 there are bona fide confidentiality concerns.

03:21 PM 1 So the question is whether Winterthur is aware of
03:21 PM 2 that position?

3 MS. ANNE SMITH: Winterthur is aware of the
03:21 PM 4 confidentiality provision. However, we also recognize the
03:21 PM 5 open records requirements of the Washington Department, so
03:22 PM 6 we have some concerns as to the level of confidentiality,
03:22 PM 7 and we are therefore working with the International
03:22 PM 8 Commission on this issue, and it will be resolved.

03:22 PM 9 DEPUTY COMMISSIONER COOPERSMITH: You are working with the
03:22 PM10 International Commission on the issue of whether there are
03:22 PM11 open records?

03:22 PM12 MS. ANNE SMITH: No, not on the open records rule, but on
03:22 PM13 the issue of lists.

03:22 PM14 DEPUTY COMMISSIONER COOPERSMITH: Ms. Smith, has your
03:22 PM15 company ever brought to the agency's attention its concern
03:22 PM16 over whether the Open Records Act overrules the provision
03:22 PM17 regarding confidentiality in the Washington insurance law?

03:22 PM18 MS. ANNE SMITH: No, we have not. Again, we are trying to
03:22 PM19 find a global solution to this matter, and thus working
03:22 PM20 through the International Commission.

03:22 PM21 DEPUTY COMMISSIONER COOPERSMITH: And one other follow-up
03:22 PM22 question regarding Commissioner Senn expressed her concern
03:22 PM23 for how you establish whether a claim was paid or not,
03:22 PM24 what constitutes a paid claim, are you prepared to submit
03:22 PM25 to her what standards you employed in making the

03:22 PM 1 determination of what claim was paid or not?

03:23 PM 2 DR. ULRICH THALMANN: May I ask you or try to rephrase

03:23 PM 3 your question that if I understood you correctly?

03:23 PM 4 DEPUTY COMMISSIONER COOPERSMITH: Yes, please.

03:23 PM 5 DR. ULRICH THALMANN: You are asking based on what

03:23 PM 6 criteria do we declare a claim as being valid or not

03:23 PM 7 valid?

03:23 PM 8 DEPUTY COMMISSIONER COOPERSMITH: Correct. And then the

03:23 PM 9 second question, what criteria do you use to determine

03:23 PM10 whether a claim has been paid or not?

03:23 PM11 DR. ULRICH THALMANN: As to the first, the International

03:23 PM12 Commission has established rules and regulations with

03:23 PM13 regard to valid or non-valid claims, and before these

03:23 PM14 rules were established our company decided on its own on a

03:23 PM15 case-by-case basis -- and you will recall that we had

03:23 PM16 relatively few cases -- but I find that what we -- the

03:23 PM17 rules that we used for ourselves were at least as liberal

03:24 PM18 as the ones that have now been established by the

03:24 PM19 International Commission. And since the time that the

03:24 PM20 International Commission has established the claims and

03:24 PM21 the guidelines, we have adhered to those guidelines.

03:24 PM22 DEPUTY COMMISSIONER COOPERSMITH: But, again,

03:24 PM23 Mr. Thalmann, we cannot accept your assurances alone.

03:24 PM24 You understand that our obligation is to determine whether

03:24 PM25 the company is proceeding in good faith.

03:24 PM 1 The question was whether you were willing to
03:24 PM 2 submit to the agency your standards for determining what
03:24 PM 3 is a valid claim and then paying it?
03:25 PM 4 DR. ULRICH THALMANN: Excuse me if I --
5 DEPUTY COMMISSIONER COOPERSMITH: You may confer.
6 (Counsel conferring
7 with Dr. Thalmann.)
03:25 PM 8 DR. ULRICH THALMANN: May I again -- it clearly states
03:25 PM 9 that we, as a signatory to the International Commission,
03:25 PM10 complied with the standards that have been set and
03:25 PM11 established by the International Commission, and this
03:25 PM12 includes also the criteria that are being used in
03:25 PM13 establishing whether a claim is valid or not.
03:25 PM14 COMMISSIONER SENN: Let me ask you three quick questions,
03:25 PM15 and I think we'll be done.
03:25 PM16 Would I be correct in understanding it is
03:25 PM17 Winterthur's position that it is not liable to pay out a
03:25 PM18 policy that was subject to a blocked account?
03:26 PM19 DR. ULRICH THALMANN: You are correct that Winterthur's
03:26 PM20 present position is that it is not liable for a payment
03:26 PM21 that, on the instruction of the policy holder or of the
03:26 PM22 government authority, was paid into a blocked account.
03:26 PM23 If I say it is the present position, I say so
03:26 PM24 because it is an issue still under discussion within the
03:26 PM25 International Commission, and should these discussions

03:26 PM 1 lead to another agreed position, then Winterthur, of
03:26 PM 2 course, would adhere to that.

03:26 PM 3 COMMISSIONER SENN: But your position at the International
03:26 PM 4 Commission is that there no liability for such a blocked
03:26 PM 5 account?

03:26 PM 6 DR. ULRICH THALMANN: Yes, it is, and it is the position
03:26 PM 7 not only of Winterthur, also of some other insurance
03:26 PM 8 companies represented in that Commission. And, of course,
03:27 PM 9 I could give you the reasons, but it would take maybe a
03:27 PM10 few minutes, why this view is the view of the company.

03:27 PM11 COMMISSIONER SENN: I would like it for the record. I
03:27 PM12 hope that it's brief. Go ahead.

03:27 PM13 DR. ULRICH THALMANN: A blocked account is an account
03:27 PM14 which exists over years, in many cases, and has a number
03:27 PM15 of items of in-flow and of out-flow. If it is an account
03:27 PM16 that is being used for a normal household, for example,
03:27 PM17 and the payment of insurance -- an insurance payment that
03:27 PM18 goes into such a blocked account is only one of many
03:27 PM19 income items that go into that account. Under a blocked
03:27 PM20 account the account holder -- or I will say the
03:28 PM21 beneficiary of the account has been allowed to use that
03:28 PM22 account for a number of purposes, for example, for
03:28 PM23 expenses of living or for paying salaries, if there were
03:28 PM24 employees, or in paying mortgage, for all kinds of
03:28 PM25 purposes. Therefore, it is very difficult to say whether

03:28 PM 1 if an insurance payment of 3,000 Reichs Marks was made
03:28 PM 2 into a blocked account in 1936 or '38, those 3,000 Reichs
03:28 PM 3 Marks would not have been available to the beneficiary of
03:28 PM 4 the account if that account continued to exist for a
03:28 PM 5 number of years.

03:28 PM 6 The only thing that in all that is based on our
03:29 PM 7 research or our historians can be established is that in
03:29 PM 8 the end, in the third period when people were deported, of
03:29 PM 9 course, then their property was eventually confiscated.
03:29 PM10 So a blocked account which may have existed over years
03:29 PM11 will, in the end, in most cases, have been confiscated.
03:29 PM12 But the insurance premium that has been paid into that
03:29 PM13 account years before it was confiscated may well have been
03:29 PM14 used up in the mean time, and therefore, you cannot argue
03:29 PM15 that it has not been received by the account holder.
03:29 PM16 COMMISSIONER SENN: Let me ask if Winterthur has
03:29 PM17 determined whether any Holocaust victims eligible for
03:29 PM18 post-War German restitution received any restitution for
03:29 PM19 Winterthur policies by the Nazis?

03:30 PM20 DR. ULRICH THALMANN: Can I, to be sure to understand the
03:30 PM21 question, ask you to ask me again?

03:30 PM22 COMMISSIONER SENN: Have you determined whether any
03:30 PM23 Winterthur policies that were allowed by the Nazis were
03:30 PM24 for policy holders who received German restitution?

03:30 PM25 DR. ULRICH THALMANN: I am afraid I have to pass on that

03:30 PM 1 question. I cannot give you the answer out of -- without
03:30 PM 2 checking in my -- in the departments who --
03:30 PM 3 COMMISSIONER SENN: That is actually number 13 on the
03:30 PM 4 written questions, so you can provide that to us. You
03:30 PM 5 have it in writing.
03:30 PM 6 MR. BRIAN KREGER: Number 13?
03:30 PM 7 COMMISSIONER SENN: No, I take it back.
03:30 PM 8 MR. BRIAN KREGER: We only had six.
03:30 PM 9 COMMISSIONER SENN: I'm sorry. We'll provide you with
10 that.
03:30 PM11 DR. ULRICH THALMANN: I would be surprised if I wouldn't
03:30 PM12 have been prepared to answer it.
03:30 PM13 COMMISSIONER SENN: I guess the final question, then, is
03:30 PM14 do I understand now that Winterthur has paid no claims
03:31 PM15 from Holocaust related insurance policies?
03:31 PM16 DR. ULRICH THALMANN: Well, no. Did I not give that
03:31 PM17 information?
03:31 PM18 COMMISSIONER SENN: How many claims have been paid
03:31 PM19 totally?
03:31 PM20 DR. ULRICH THALMANN: That refers back to the nine
03:31 PM21 Holocaust related --
03:31 PM22 COMMISSIONER SENN: You said you two have been paid, six
03:31 PM23 were pending, and one answer --
03:31 PM24 DR. ULRICH THALMANN: Yes.
03:31 PM25 COMMISSIONER SENN: You said six. What's the difference

03:31 PM 1 six pending and one offered? You have six claims
 2 pending --

03:31 PM 3 DR. ULRICH THALMANN: No, six have been declined.
 4 COMMISSIONER SENN: Six have been declined.

03:31 PM 5 DR. ULRICH THALMANN: Two have been paid, and one is
 03:31 PM 6 pending.

03:31 PM 7 COMMISSIONER SENN: One is pending?

03:31 PM 8 DR. ULRICH THALMANN: Yes.

03:31 PM 9 DEPUTY COMMISSIONER COOPERSMITH: And that two represents
 03:31 PM10 the entire number of claims Winterthur has paid for
 03:31 PM11 Holocaust claimants during this whole process, is that
 03:31 PM12 correct?

03:31 PM13 DR. ULRICH THALMANN: It represents out of 145 claims that
 03:32 PM14 have been submitted, the number where the payment has been
 03:32 PM15 made.

03:32 PM16 DEPUTY COMMISSIONER COOPERSMITH: So Winterthur hasn't
 03:32 PM17 paid any other Holocaust claimant during -- since the
 03:32 PM18 inception of the Holocaust claims process, is that
 03:32 PM19 correct?

03:32 PM20 DR. ULRICH THALMANN: That is certainly not correct, no.
 03:32 PM21 Because, in general terms, Winterthur pays claims, and
 03:32 PM22 therefore, over decades of years we, of course, never have
 03:32 PM23 established that a claim -- was a normal recipient of a
 03:32 PM24 life insurance payment, we would never determine whether
 03:32 PM25 -- anything about their personal circumstances. But is it

03:32 PM 1 a no or is it a paid claim?

03:32 PM 2 COMMISSIONER SENN: Do you understand our concern about

03:32 PM 3 the publication of names? Let me give you an example.

03:32 PM 4 You know who Madeline Kunin is, do you not?

5 DR. ULRICH THALMANN: Oh, yes.

6 COMMISSIONER SENN: She is the former U.S. Ambassador to

7 Switzerland.

8 DR. ULRICH THALMANN: Yes.

03:32 PM 9 COMMISSIONER SENN: And she is a bank claimant, she has an

03:33 PM10 account, a bank account which she didn't know about until

03:33 PM11 they published the names of the bank accounts in the

03:33 PM12 newspapers in August of 1997, and Ambassador Kunin

03:33 PM13 discovered that her mother held an account, her mother,

03:33 PM14 who was a Holocaust survivor. She would not have known

03:33 PM15 about that account without the publication.

03:33 PM16 So by the same token, you know, unless you publish

03:33 PM17 the names of the policy holders or show us definitively

03:33 PM18 that it's not relevant because they have been paid an

03:33 PM19 accounted for, how can we believe that there aren't policy

03:33 PM20 holders who have a claim to make?

03:33 PM21 DR. ULRICH THALMANN: I fully support and share your

03:33 PM22 concern about the publication. However, in the case you

03:33 PM23 mentioned of Ms. Kunin, it was not a publication of all

03:34 PM24 bank accounts of a certain period of time. It was only

03:34 PM25 the publication of dormant bank accounts, dormant,

03:34 PM 1 according to a certain definition, which, by the way, has
03:34 PM 2 been enlarged over time. That explains that as time went
03:34 PM 3 on the number of these supposedly or not dormant accounts
03:34 PM 4 has grown.

03:34 PM 5 COMMISSIONER SENN: Wouldn't unpaid become enlarged over
03:34 PM 6 time with a similar process, the definition of an unpaid
03:34 PM 7 policy?

03:34 PM 8 DR. ULRICH THALMANN: If you changed the definition of an
03:34 PM 9 unpaid policy, of course, it can either shrink or grow.
03:34 PM10 It depends on the definition.

03:34 PM11 But going back now to your question. We
03:34 PM12 absolutely and hope that we catch every unpaid and
03:34 PM13 potentially unpaid policy, and in applying those standards
03:34 PM14 we -- when there is any doubt, we decide in favor of,
03:35 PM15 assuming it has not been paid, and then it would be
03:35 PM16 published.

03:35 PM17 So as far as publication of the names of unpaid
03:35 PM18 policies is concerned, we, I think, agree and absolutely
03:35 PM19 agree with your concern that the publication must be made
03:35 PM20 possible.

03:35 PM21 DEPUTY COMMISSIONER COOPERSMITH: Well, you can also
03:35 PM22 expect a letter from Commissioner Senn outlining what
03:35 PM23 documents she will need and the deadline by which those
03:35 PM24 should be submitted.

03:35 PM25 COMMISSIONER SENN: Thank you very much.

03:35 PM 1 DEPUTY COMMISSIONER COOPERSMITH: Thank you for your
03:35 PM 2 testimony.
03:35 PM 3 COMMISSIONER SENN: I'm going to go to Mr. Brown. I want
03:35 PM 4 to just say, though, that I know this is long and tiring.
03:36 PM 5 We're trying to do in three or four hours what California
03:36 PM 6 did in two days, and I'm sure they felt that they weren't
03:36 PM 7 finished, so bear with us and we will give everybody a
03:36 PM 8 chance.

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Testimony Of Bobby Brown

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03:36 PM12 COMMISSIONER SENN: Welcome, Mr. Brown, to the State of
03:36 PM13 Washington. Would you identify yourself for the record,
03:36 PM14 and then since you sit on the International Commission and
03:36 PM15 you have heard the testimony today, I think you can
03:36 PM16 possibly enlighten about what has been going on. So why
03:36 PM17 don't you make your statement, and then actually we will
03:36 PM18 ask you some questions.
03:36 PM19 MR. BOBBY BROWN: Okay. First of all, I would like to say
03:36 PM20 what a pleasure it is to be here. I feel almost an
03:36 PM21 obligation to be here. The whole issue of Holocaust
03:36 PM22 insurance claims remained an open-ended question for
03:36 PM23 60 years, and for 60 years many, many people approached
03:36 PM24 this and were refused, and only because of the
03:36 PM25 determination of a handful of regulators in the United

03:37 PM 1 States, and I think that State of Washington leads that
03:37 PM 2 pack of very special regulators bringing this to the
03:37 PM 3 attention of the world, saying that this is a moral
03:37 PM 4 question that has to be answered before business as usual
03:37 PM 5 can continue, has helped bring this issue forward, has
03:37 PM 6 given hope to Holocaust victims, not only in the State of
03:37 PM 7 Washington, not only in the United States, not only in the
03:37 PM 8 State of Israel, but around the world. And I, in my
03:37 PM 9 humble capacity, would like to thank the Commissioner's
03:37 PM10 office and the Commissioner herself for having done this
03:37 PM11 work. I know that whatever progress we have made, the
03:37 PM12 watchful eye of the Commissioner and the Commissioner's
03:37 PM13 office has kept us all honest, and I thank you for that.

03:37 PM14 I serve on the International Commission as a
03:37 PM15 representative of the government of Israel. I have been
03:38 PM16 involved in Holocaust retrieval property issues for the
03:38 PM17 government of Israel for approximately four years. I am
03:38 PM18 the son of two Holocaust victims, neither of whom have
03:38 PM19 made any claim on insurance. And I feel that, to a large
03:38 PM20 extent, we in this room who were not alive during the
03:38 PM21 Holocaust were faced with two last battles of the
03:38 PM22 Holocaust, and one of those battles we lost, and that was
03:38 PM23 the fight to bring to justice to so many criminals who
03:38 PM24 went to their graves with the stories of what happened.

03:38 PM25 And the second was the retrieval of property.

03:38 PM 1 Fortunately after the Holocaust, in almost a gentleman's
03:38 PM 2 agreement, the horrors of war relating to normal human
03:38 PM 3 functions stopped, laws protecting property, laws
03:38 PM 4 protecting art work, laws protecting insurance and
03:39 PM 5 banking. Because during the havoc of post-war there was
03:39 PM 6 kind of an understanding that Jews were no longer here,
03:39 PM 7 and their property is no longer needed to be watched over.
03:39 PM 8 And insurance is certainly one very serious aspect of
03:39 PM 9 that, and I think that what we're doing and what you're
03:39 PM10 doing and the Commissioner is doing is really writing that
03:39 PM11 last chapter of the Holocaust. I hope it's a chapter we
03:39 PM12 will all be proud of.

03:39 PM13 I also would like to thank the Commissioner
03:39 PM14 herself for having been involved with the formation of the
03:39 PM15 MOU and the Commission itself. I think that the
03:39 PM16 Commission is a positive thing. I think we have a mixed
03:39 PM17 record. Up until now we have had progress in some areas,
03:39 PM18 and unfortunately we have not had progress in others. I
03:39 PM19 will be glad to talk about those issues.

03:39 PM20 I think that it has perked the attention of the
03:40 PM21 Jewish community and the Holocaust survivor community
03:40 PM22 around the world who are waiting to see what happens in
03:40 PM23 the next few weeks and months. For that reason, I think
03:40 PM24 that the hearings we have here are not only correct, but
03:40 PM25 they are timely.

03:40 PM 1 The International Commission was started over a
03:40 PM 2 year ago, and if I had to define what I saw as the tasks
03:40 PM 3 of the Commission, I would put it down as four. Number 1,
03:40 PM 4 is the paying of legitimate claims. Number 2, is the
03:40 PM 5 publication of names and additional biographical
03:40 PM 6 information of those people who would be and should be
03:40 PM 7 allowed to make claims. Number 3, is the determination of
03:40 PM 8 how much exists in unpaid claims and making sure that
03:40 PM 9 those unpaid claims go towards humanitarian efforts and
03:41 PM10 not stay as unpaid claims, preferably to the aid of those
03:41 PM11 few survivors who would still benefit from that. And
03:41 PM12 number 4, which is no less important than the first three,
03:41 PM13 is a moral statement that what happened was wrong, and
03:41 PM14 that we will be on our guard, all of us, with respect to
03:41 PM15 the atrocities, and never again should such things happen.
03:41 PM16 This combination of moral and due restitution is the duty
03:41 PM17 that we're seeking in the International Commission, and I
03:41 PM18 believe the common sense and logic is behind the law of
03:41 PM19 the State of Washington.

03:41 PM20 Some of the things that I have heard -- obviously
03:41 PM21 we can't go into all of the details of the International
03:41 PM22 Commission. Some of the decisions of the Commission I
03:41 PM23 will abide by, but I don't feel all of the obligations
03:41 PM24 that we have to do. I would like to give you some basic
03:41 PM25 understanding of some of the issues that we have now in

03:42 PM 1 front of us.

03:42 PM 2 The names issue I think is critical. Very few
03:42 PM 3 people ran out of the Warsaw ghetto or out of the camps
03:42 PM 4 with their policy in hand and record of payments in the
03:42 PM 5 other hand. And, indeed, the Fast-Track, which I
03:42 PM 6 participated in -- I submitted on behalf of the state of
03:42 PM 7 Israel over 100 claims, I believe 110. So even though
03:42 PM 8 some people have been paid, it has basically not worked
03:42 PM 9 the way we wanted it to. And that Fast-Track, I hope we
03:42 PM10 have learned certain lessons that will impact on the
03:42 PM11 claims process itself, which will begin on the first of
03:42 PM12 February, and no longer will only specific claims be put
03:42 PM13 in that have paper and regulators and the State of Israel,
03:42 PM14 and not by the general public.

03:43 PM15 I believe there are problems. I would like to go
03:43 PM16 into some of the details. For instance, one of the things
03:43 PM17 the Commissioner talked about were the files of Allianz,
03:43 PM18 the one-and-a-half or so million that they have. I would
03:43 PM19 like to at least report back what has been reported to me
03:43 PM20 and what I have seen and then some of the logic we have
03:43 PM21 had up until now.

03:43 PM22 Allianz has a card file of 7 million names. And
03:43 PM23 those names, according to Allianz, consist of a total
03:43 PM24 universe of those people who had policies or hadn't made
03:43 PM25 any inquiries into Allianz. They maintain that because

03:43 PM 1 someone is in the card file that it doesn't necessarily
03:43 PM 2 mean they have a policy. But someone who is not in that
03:43 PM 3 card file would mean that they didn't have a policy.

03:43 PM 4 I saw the Arthur Anderson study. After seeing it
03:44 PM 5 I asked Allianz for a copy, and they told me I would have
03:44 PM 6 to maintain complete confidentiality on the study itself.
03:44 PM 7 And I replied that I would rather not receive a copy of
03:44 PM 8 the study, because I intend to look at it and to either
03:44 PM 9 endorse it or be critical of the methodology.

03:44 PM10 We did not accept the study as being a determining
03:44 PM11 factor of how many policies were Jewish policies in the
03:44 PM12 case of Allianz. Allianz maintained it would take
03:44 PM13 180-man-years to go through their files, and any of the
03:44 PM14 things we decide -- and I want the agonizing decisions
03:44 PM15 that we have to come to, we have a scale, and on one side
03:44 PM16 of that scale we have justice, and on the other side of
03:44 PM17 that scale we have time, and those two weigh heavy,
03:44 PM18 because we're talking about trying to get funds into the
03:44 PM19 hands of those who deserve it and those who need it as
20 soon as possible.

03:45 PM21 The agreement that we came -- that I came to with
03:45 PM22 Allianz was that a sampling will be done. I think that
03:45 PM23 there is a certain amount of constructive disagreement
03:45 PM24 about what happens after that is looked at between the two
03:45 PM25 of us. But we basically decided as follows: Their file

03:45 PM 1 was divided into three categories, very small policies,
03:45 PM 2 and those very small policies were about 600,000, which
03:45 PM 3 they call funeral policies, which they claim are mostly
03:45 PM 4 and literally a very small amount of money, and they claim
03:45 PM 5 that that business boomed during the war when German
03:45 PM 6 soldiers bought funeral policies so that they would be
03:45 PM 7 covered in case of the death of a soldier involved. We
03:45 PM 8 agreed that 1,000 of those would be taken as random
03:46 PM 9 samples through the Yad Vashem and on files to see what
03:46 PM10 kind of results they have. According to Allianz, I
03:46 PM11 believe they said less than 1 percent are Jewish, and we
03:46 PM12 want to see what kind of results we get from that.

03:46 PM13 They had 140 some odd thousand large files that
03:46 PM14 were complete files. All of those large files,
03:46 PM15 100 percent of those large files, would be sent to Yad
03:46 PM16 Vashem. Of the remaining 1.3 million, or whatever the
03:46 PM17 number is, we said were incomplete files, and we basically
03:46 PM18 said that we will take a sampling of 5,000 of those and
03:46 PM19 see what happens to the incomplete files.

03:46 PM20 Based on those samplings, at least, and I have
03:46 PM21 stated that I will give any opinion of whether a
03:47 PM22 continuation is needed or not.

03:47 PM23 At this point, Allianz looks at that as being the
03:47 PM24 finality of the search. I have said that I would reserve
03:47 PM25 judgment until I see what those samplings produce.

03:47 PM 1 In the case of the publication, there are two
03:47 PM 2 efforts made to publicize names. One, is the publication
03:47 PM 3 of names from companies, and unfortunately, with the
03:47 PM 4 exception of one company, Generali, we have gotten very
03:47 PM 5 poor results, for a number of reasons, from the other
03:47 PM 6 companies. Often the reason is because of
03:47 PM 7 confidentiality, confidentiality of the country involved.
03:47 PM 8 Other countries determine for themselves what is a Jewish
03:47 PM 9 policy and what is an unpaid policy or what is a Holocaust
03:47 PM10 policy is, and sometimes we disagree with the methodology
03:48 PM11 involved.

03:48 PM12 We believe that we must be vigilant in getting as
03:48 PM13 many names as possible. I would agree with the
03:48 PM14 Commissioner and her staff that only through publication
03:48 PM15 of names can real claimants be able to be found and come
03:48 PM16 forward. But the International Commission has agreed --
03:48 PM17 and this is one of the positive aspects -- has agreed to
03:48 PM18 employ the former chief archivist of the Zionist Archives
03:48 PM19 in Jerusalem, who will be going around Europe and trying
03:48 PM20 to harvest, within reason, appropriate archives and come
03:48 PM21 up with names. The Austrian archives, two archives have
03:48 PM22 been done up until now. One has been a small archive in
23 Jerusalem, and one has been a large archive in Austria.
03:48 PM24 Approximately a third of the Austrian archives have shown
03:48 PM25 the insurance data, including policy numbers. In the case

03:49 PM 1 of Jerusalem, these are people who came mostly before the
 03:49 PM 2 Holocaust and filled out right after the Holocaust. There
 03:49 PM 3 was a number of 100, mostly property insurances, strangely
 03:49 PM 4 enough.

03:49 PM 5 I would like also like to bring to the attention
 03:49 PM 6 that we, at least on behalf of the claims that I have
 03:49 PM 7 submitted, I am not happy with RAS and the response of
 03:49 PM 8 loss up until now. To the best of my knowledge, we have
 03:49 PM 9 received two claimants in the State of Israel from RAS,
 03:49 PM10 two offers -- I'm sorry -- two offers. In the case of
 03:49 PM11 RAS, RAS claims, at least to us, that with the exception
 03:49 PM12 of the Italian files, that have no records at all, zero
 03:49 PM13 records. The only addition of records they claim to have
 03:49 PM14 is approximately 3,000 letters that have been sent out
 03:49 PM15 over the years to Holocaust victims to file 3,000
 03:50 PM16 responses of RAS.

03:50 PM17 The responses I have seen have done -- for
 03:50 PM18 instance, I think Allianz mentioned before the company of
 03:50 PM19 -- I'm not sure if I'm pronouncing it right -- Vereinte,
 03:50 PM20 the company owned by -- owned by -- RAS. I have claimants
 03:50 PM21 who have gotten refusal letters saying that this
 03:50 PM22 particular company was taken over by Hungarians in 1950,
 03:50 PM23 after the International Commission determined that the
 03:50 PM24 naturalized policies would be paid with -- "nationalized
 03:50 PM25 policies would be paid." So we are not happy with that.

03:50 PM 1 There is also, for instance, one company where
03:50 PM 2 after the International Commission sent it to RAS, they
03:50 PM 3 said they applied to be a recipient of the claimant, and
03:50 PM 4 that was Generali, they bought the company from us. That
03:51 PM 5 shouldn't have happened, especially between the two
03:51 PM 6 companies. I hope that the lessons of the Fast-Track will
03:51 PM 7 be learned.

03:51 PM 8 On the first of February Mr. Eagleburger will, in
03:51 PM 9 a press conference, allow the opening of at least a
03:51 PM10 two-year process of claims open to the public. That
03:51 PM11 claims process will be followed by approximately a
03:51 PM12 \$9 million outreach program, where newspapers or
03:51 PM13 advertisements will be given, calling up people who might
03:51 PM14 feel they might have a claim to submit it, along with any
03:51 PM15 kind of evidence they may have.

03:51 PM16 I think that the true test of the metal of the
03:51 PM17 International Commission will be in the next short while,
03:51 PM18 as we see, A, whether the outreach program works, and, B,
03:52 PM19 whether we begin paying claims on a much more aggressive
03:52 PM20 policy than the Fast-Track, which wasn't fast. And,
03:52 PM21 number 3, whether we can begin publishing names, both from
03:52 PM22 companies and from outside archives.

03:52 PM23 I would like to give an example of an individual
03:52 PM24 who came to me, a certain Holocaust survivor's child, and
03:52 PM25 he himself is in his 60s came to me said I wanted to meet

03:52 PM 1 with you just to tell you that a company has paid me for
03:52 PM 2 my father's policy. And I said, well, how did you know it
03:52 PM 3 was your father's policy? He said I didn't. I said well,
03:52 PM 4 how were you paid? And he said I knew my father had a
03:52 PM 5 building in Germany, a commercial building, and when I
03:52 PM 6 went to collect on the building that was his, I was told I
03:53 PM 7 can't pay the entire -- I can't receive the entire amount,
03:53 PM 8 because there was a mortgage on the building. And I asked
03:53 PM 9 to see the mortgage. Within the mortgage was a life
03:53 PM10 insurance component. My father was killed during the
03:53 PM11 Holocaust. He never gave up the mortgage. And that was
03:53 PM12 to cover it, and he was actually paid. This opened up an
03:53 PM13 entire new category we had never even thought of that
03:53 PM14 existed of people who might be recipients from mortgages
03:53 PM15 that had legitimate life insurance components.

03:53 PM16 Now, obviously, it was meant to pay for the
03:53 PM17 property, but the property was confiscated. That was
03:53 PM18 something else.

03:53 PM19 One of the confusing things I would also like to
03:53 PM20 bring to the attention of the Commissioner is that, for
03:53 PM21 instance, in RAS I recently -- I gave two documents to
03:53 PM22 Mr. Hansmeyer with the International Commission. One was
03:54 PM23 an individual who had, according to my calculations or
03:54 PM24 evaluation, and I might be wrong, would be paid the
03:54 PM25 equivalent of about \$20,000 or \$22,000 for the policy of

03:54 PM 1 his father. He received in 1960, he and his sister
2 received the equivalent -- today's equivalent of about
03:54 PM 3 \$350 from the German authorities. Okay, that -- of course
03:54 PM 4 no one was around in the 1960s to say don't accept this
03:54 PM 5 money, because in 40 years you might be able to get more
03:54 PM 6 if you hold out until the International Commission came.
03:54 PM 7 I found that very disturbing, but officially, according to
03:54 PM 8 the ICHEIC rules, he would not be paid.

03:54 PM 9 I would also like to bring to the attention of
03:54 PM10 something which has been said, the position of the company
03:54 PM11 as far as blocked accounts, as "we paid, so we don't have
03:54 PM12 to pay again." Our understanding of blocked accounts was
03:55 PM13 that they were created in what amounts to one of the
03:55 PM14 largest agreements of fraud ever committed between a
03:55 PM15 government and insurance companies. When insurance
03:55 PM16 companies complained that if they don't pay the insured
03:55 PM17 they will not receive re-insurance, which often was an
03:55 PM18 outside company coming into Nazi Germany, and only that
03:55 PM19 re-insurance was based on paying the individual claimant.
03:55 PM20 Quite frankly, the beginning of blocked accounts was done
03:55 PM21 so that the companies could go back to the insurers and
03:55 PM22 say yes, we have paid the person, even though the person
03:55 PM23 would not receive benefit of that money.

03:55 PM24 So the issue has not been clarified, but we
03:55 PM25 unequivocally, on the Jewish side in the State of Israel

03:56 PM 1 have said that we looked at blocked accounts.

03:56 PM 2 And I would like to give just one more small
03:56 PM 3 justification of that, and that is the companies have
03:56 PM 4 stood very firmly, and all the companies that have a
03:56 PM 5 German subsidiary have stood very firmly and said if the
03:56 PM 6 government of Germany paid a claimant, we don't have to
03:56 PM 7 pay it. So they have gotten benefit from the government
03:56 PM 8 of Germany who have paid claims. On the other hand, when
03:56 PM 9 they paid to the Nazi government, they don't want to take
03:56 PM10 responsibility, and I think they are two sides of the same
03:56 PM11 coin, that blocked accounts, to us, are extremely
03:56 PM12 important.

03:56 PM13 The reason why I would like to at least also
03:56 PM14 defend the companies, and the reason why they in the
03:56 PM15 German government have been very much against paying
03:56 PM16 additional money for BEG claims, as I said, we have paid
03:56 PM17 something in the neighborhood of 70 billion Deutch Marks
03:56 PM18 over the course since the war on restitution payment, and
03:56 PM19 we are very nervous about opening up any aspect, because
03:57 PM20 we open up the insurance, and it could open up -- what
03:57 PM21 about people who received very little money for property,
03:57 PM22 that their properties are now worth a great deal more? So
03:57 PM23 there is a great hesitancy on the part of Germany and on
03:57 PM24 the part of the companies to open the BEG -- the
03:57 PM25 restitution agreement.

03:57 PM 1 I would like also to give Deborah and Jeffrey and
 03:57 PM 2 anyone else the opportunity to ask any questions you might
 03:57 PM 3 have. But I would say that I would -- I welcome the law
 03:57 PM 4 of the State of Washington. I think it's a good law and a
 03:57 PM 5 just law and a law looking to find rough justice when it
 03:57 PM 6 has denied so long. But I would urge that the companies
 03:57 PM 7 receive the benefit of the doubt temporarily until we see
 03:57 PM 8 if the claims process will work, what kind of names are
 03:58 PM 9 published and when, and whether, indeed, certain companies
 03:58 PM10 hide behind minutiae to deny payments, something which
 03:58 PM11 unfortunately I found too often with some of the companies
 03:58 PM12 in the Fast-Track, which I hope will not occur in the
 03:58 PM13 claims process.

03:58 PM14 COMMISSIONER SENN: Thank you very much. Thank you for
 03:58 PM15 your thoughts and observations.

03:58 PM16 Let me ask you about the Fast-Track process, as
 03:58 PM17 we've talked to Mr. Lefkin about it. My understanding is
 03:58 PM18 that these are the best documented claims of all, and I
 03:58 PM19 hear from Mr. Lefkin, well, this one wasn't Allianz, and
 03:58 PM20 this one wasn't provable, and so what will happen to the
 03:58 PM21 rest of the process if these well-documented claims aren't
 22 accepted?

03:58 PM23 MR. BOBBY BROWN: Well, a few things. First of all, there
 03:58 PM24 was a problem, which I hope now is resolved, that the
 03:58 PM25 companies put together what is called a family tree. And

03:59 PM 1 when I asked the Commission for a copy of the family tree,
03:59 PM 2 I was told it was confidential information, even though it
03:59 PM 3 had all been gathered from public documents. And the
03:59 PM 4 reason being that the companies did not want this
03:59 PM 5 information to fall into the hands of class action
03:59 PM 6 lawyers, who would have an easier time of going to court,
03:59 PM 7 which is an argument that we rejected.

03:59 PM 8 I am pleased to say that I have been informed by
03:59 PM 9 ICHEIC that the list is in the mail, that hopefully it was
03:59 PM10 sitting in Jerusalem already, and it is now open, and I
03:59 PM11 hope that will avoid certain conflicts.

03:59 PM12 COMMISSIONER SENN: I guess I have to ask what is a family
03:59 PM13 tree?

03:59 PM14 MR. BOBBY BROWN: A family tree is what was owned by each
03:59 PM15 company, what subsidiaries they have. And I hope -- I
03:59 PM16 can't speak for the International Commission, but I
03:59 PM17 believe that all interested parties should have that
03:59 PM18 information available to them.

03:59 PM19 I know that the information about the Fast-Track
04:00 PM20 has been kept very close to the chest, and I would be glad
04:00 PM21 to submit to the Commissioner, with the names whited out,
04:00 PM22 examples of cases that have been refused to the State of
04:00 PM23 Israel by certain companies, and the reason they have.
04:00 PM24 I'm not worried about the secrecy problem, because I think
04:00 PM25 some of them have been refused wrongly, and I hope that

04:00 PM 1 all of our work together be can used to correct those
04:00 PM 2 problems.

04:00 PM 3 I think that, to a large extent -- to a large
04:00 PM 4 extent, I tried very hard and with the other Commissioners
04:00 PM 5 only to submit MOU companies, and only to submit -- every
04:00 PM 6 one of the ones I submitted were based on either the
04:00 PM 7 claimant having a full policy, or, in some cases, letters
04:00 PM 8 of confirmation from the company itself, saying yes, we
04:00 PM 9 know you had the following policy. So I, especially with
04:01 PM10 RAS, don't understand a lot of the responses that my
04:01 PM11 claimants got, and maybe my little over 100 were not
04:01 PM12 representative of the 900 submitted. But I have not been
04:01 PM13 happy with the responses, and I have -- at the December
04:01 PM14 meeting of ICHEIC I brought up a list of six different
04:01 PM15 suggestions I have on how to correct that.

04:01 PM16 And there were a lot of other problems. For
04:01 PM17 instance, claimants didn't receive uniform letters, so
04:01 PM18 claimants were not informed that there will be an appeals
04:01 PM19 process if they don't agree, which I think is now in
04:01 PM20 keeping with any offer. Some just realized that they have
04:01 PM21 a number of alternatives if they feel it's not fair.

04:01 PM22 I suggest that you also place inside the
04:01 PM23 evaluation be placed clearly on the offer, explaining how
04:01 PM24 one got to those numbers, because it's often confusing.

04:02 PM25 I would like to say in the case of RAS, all of the

04:02 PM 1 claimants that I've heard who received offers had two
04:02 PM 2 payments taken off at random, and I don't understand why
04:02 PM 3 that happened, because the company had no records. I have
04:02 PM 4 had -- some of my claimants get letters from RAS which
04:02 PM 5 said please tell us when what payments were made and when
04:02 PM 6 they were made and until. For someone who miraculously
04:02 PM 7 has some paper on their RAS policy, in my opinion once
04:02 PM 8 they have proven that they legitimately have a policy, if
04:02 PM 9 RAS can't prove that they were paid, and they cannot, then
04:02 PM10 those policies should be considered unpaid and paid again
04:02 PM11 or paid because we don't know.

04:02 PM12 All in all, again, if one looks at the Fast-Track
04:02 PM13 as being a dry-run and we've learned something, then I
04:02 PM14 hope the claims process will succeed further. On the
04:03 PM15 other hand, I remain open-minded, but watchful, as we go
04:03 PM16 into the claims process.

04:03 PM17 COMMISSIONER SENN: Let me -- here is my concern, Bobby.
04:03 PM18 Allianz tells us it will take a year to get those names
04:03 PM19 prepared -- just the 150,000. The claims process is a
04:03 PM20 two-year process, it's supposed to start February 1st, and
04:03 PM21 it's going to be \$9 million spent on outreach, and I'm
04:03 PM22 sure the Commission will do a great job on outreach, but
04:03 PM23 all the outreach in the world doesn't work if people don't
04:03 PM24 know if their family has a policy or not. So we have a
04:03 PM25 claims process that's going to start February 1st with no

04:03 PM 1 publication of names, and the possibility of within a year
 04:03 PM 2 having 150,000 from Allianz, and I don't know exactly how
 04:03 PM 3 many from Generali, but I believe 10,000 off of a disk of
 04:04 PM 4 300,000, so I'm concerned that if the companies have
 04:04 PM 5 succeeded in delaying this enough we're not going to get
 04:04 PM 6 the publication, and that seems to be the only way.

04:04 PM 7 MR. BOBBY BROWN: I share your concern, and I would like
 04:04 PM 8 to alleviate your concern, but I don't necessarily feel I
 04:04 PM 9 can. I feel that the names are as critical as you make
 04:04 PM10 them out to be. I feel that we must do everything. When
 04:04 PM11 I see a very small outfit, Avotaynu, which was able to put
 04:04 PM12 one-third of the Austrian list on the internet in no time
 04:04 PM13 flat. And shortly after we finished, public documents in
 04:04 PM14 Jerusalem archives were looked at by a journalist, and he
 04:04 PM15 published a list of the Jerusalem archives book. So I see
 04:04 PM16 the speed in which private enterprise is working and the
 04:04 PM17 slow wheels of the Commission and the companies here
 04:04 PM18 are --

04:04 PM19 COMMISSIONER SENN: The companies are private enterprises,
 04:05 PM20 the last I heard.

04:05 PM21 MR. BOBBY BROWN: The Commission isn't. It's troublesome
 04:05 PM22 for me, too, and I think whatever can be done to encourage
 04:05 PM23 the companies -- and one of the methodology problems I
 04:05 PM24 have is that the companies only want to publish those
 04:05 PM25 names that have been looked over 20 times and we're sure

04:05 PM 1 are unpaid and sure we are sure are Holocaust, and by the
04:05 PM 2 time we've done this, of course, it's taking a tremendous
04:05 PM 3 amount of time.

04:05 PM 4 I would rather take the chance of putting names on
04:05 PM 5 that are still in question, and only when the claims come
04:05 PM 6 forward to look at these names and determine, indeed. And
04:05 PM 7 I believe we've agreed to put on the list certain Surgeon
04:05 PM 8 General's warning that because someone's name is on the
04:05 PM 9 list doesn't necessarily mean that they have an unpaid
04:05 PM10 policy or it doesn't mean if you were not on the list that
04:06 PM11 the reverse be true.

04:06 PM12 So I share your concern, and I have done my best
04:06 PM13 to encourage the companies. If you take, for instances,
04:06 PM14 the case of Axa. Axa, at least, in two or three big
04:06 PM15 markets, in the case of Belgium and in the case of France,
04:06 PM16 have stated that the government regulations are not
04:06 PM17 allowing them to publish them. They have, I believe,
04:06 PM18 interest and want to publish, and they have such lists
04:06 PM19 ready to go, and the lists are, at least in terms of other
04:06 PM20 companies, large.

04:06 PM21 So we are in a dilemma of what to do in these
04:06 PM22 cases, where laws that may be originally intended for
04:06 PM23 protection of the public, will actually be used in such a
04:06 PM24 way that the public will not know of rights that should be
04:06 PM25 due them.

04:06 PM 1 COMMISSIONER SENN: How big is the Axa list?

04:06 PM 2 MR. BOBBY BROWN: Well, I've not been told formally or
3 informally, so --

04:06 PM 4 COMMISSIONER SENN: I will ask Axa for that number. This
04:07 PM 5 the last question, and then we'll take a break.

04:07 PM 6 I am concerned about the German Foundation, the
04:07 PM 7 negotiation impact on the insurance claims. I salute
04:07 PM 8 Deputy Secretary Eizenstat for the work he has done on the
04:07 PM 9 negotiations, but I am concerned about the impact on the
04:07 PM10 insurance claims before -- until we get the list
04:07 PM11 published.

04:07 PM12 MR. BOBBY BROWN: I can tell you that we have had two
04:07 PM13 horrendous days this week where we have discussed the
04:07 PM14 various few points on the German initiative. I think the
04:07 PM15 help of the insurance claims would have been better had we
04:07 PM16 not had any connection. Unfortunately, that connection is
04:07 PM17 there, that connection has been made, and I don't know
04:07 PM18 whether we have the ability to disengage insurance from
04:07 PM19 the German Foundation.

04:07 PM20 The Jewish/Israel side, I believe most of the
04:07 PM21 regulators intended to endorse the proposal, going forward
04:07 PM22 with the following proposal: That from the German
04:08 PM23 Foundation, 300,000 -- I'm sorry -- 300 million Deutch
04:08 PM24 Marks be put in a humanitarian fund for humanitarian
04:08 PM25 reasons only; that an additional 100 million Deutch Marks

04:08 PM 1 from the foundation be used to pay claims that may arise;
04:08 PM 2 and because nobody wants to be responsible for the claims
04:08 PM 3 after the 100 million are paid, that an escrow account and
04:08 PM 4 some agreement giving us the ability to have access to an
04:08 PM 5 account of 500 million Deutch Marks be put aside to pay
04:08 PM 6 any additional claims that might come forward, if, indeed,
04:08 PM 7 more than 100 million Deutch Marks claims come forward,
04:08 PM 8 and that the 500 million Deutch Mark escrow account be
04:08 PM 9 referred back to the companies after a given time, if,
04:09 PM10 indeed, they were not accessed.

04:09 PM11 COMMISSIONER SENN: Thank you very much. Thank you for
04:09 PM12 coming.

04:09 PM13 MR. BOBBY BROWN: Thank you for having me.

14 COMMISSIONER SENN: We're going to take a break, and then
15 we're going to go to Generali.

16 (Short Recess.)

17

18 Testimony Of Zurich Representatives

19

04:18 PM20 COMMISSIONER SENN: Zurich asked if they could go next,
04:18 PM21 and we said yes, and we told them if they answered the
04:18 PM22 questions quickly and succinctly it would be just a matter
23 of minutes, and then we would move to Generali.

04:19 PM24 MR. DAVID BOWERS: Commissioner, my names is David Bowers.
04:19 PM25 I am general counsel of Zurich US Group. With me here

04:19 PM 1 today is Robert Raives, with the law firm of Gilbert,
04:19 PM 2 Segall & Young. He's been outside counsel to Zurich
04:19 PM 3 throughout this process from the inception of the MOU
04:19 PM 4 through to the present time. So Mr. Raives stands ready to
04:19 PM 5 answer questions on behalf of Zurich.
04:19 PM 6 COMMISSIONER SENN: Would you spell your name for the
04:19 PM 7 record?
8 MR. ROBERT RAIVES: It's R-a-i-v -- as in Victor -- e-s.
9 DEPUTY COMMISSIONER COOPERSMITH: And Mr. Bowers, could
10 you do the same, as well?
11 MR. DAVID BOWERS: B-o-w-e-r-s.
04:19 PM12 COMMISSIONER SENN: Let me first start with how many
04:19 PM13 Holocaust claims has your company handled through the
04:19 PM14 International Commission's Fast-Track process?
04:19 PM15 MR. ROBERT RAIVES: Zurich has received four Fast-Track
04:19 PM16 claims, Commissioner.
04:19 PM17 COMMISSIONER SENN: Why don't you tell me what the status
04:19 PM18 of those claims are?
04:20 PM19 MR. ROBERT RAIVES: Three of the four they have developed
04:20 PM20 have been -- it was determined that they were not related
04:20 PM21 to Zurich, and so, obviously, there was no payment paid.
04:20 PM22 It was other unrelated companies.
04:20 PM23 The fourth one was received approximately
04:20 PM24 two-and-a-half weeks ago, and it is still under
04:20 PM25 investigation.

04:20 PM 1 COMMISSIONER SENN: How many claims has Zurich paid
04:20 PM 2 throughout this process over the last two years?
04:20 PM 3 MR. ROBERT RAIVES: You mean aside from Fast-Track?
04:20 PM 4 COMMISSIONER SENN: Aside from Fast-Track.
04:20 PM 5 MR. ROBERT RAIVES: We have only received three direct
04:20 PM 6 claims outside of the Fast-Track in the last two years,
04:20 PM 7 and those three, it developed, had been paid decades ago
04:21 PM 8 right after World War II. So I suppose the direct answer
04:21 PM 9 to your question is none, but we have only received three.
04:21 PM10 And if this number seems surprising, I just want to state
04:21 PM11 for the record that Zurich was a very small player. They
04:21 PM12 occupied 0.06 percent of the German market and 0.1 percent
04:21 PM13 of the market in all of the relevant countries.
04:21 PM14 COMMISSIONER SENN: Zurich owns Farmers Insurance in this
04:21 PM15 country, is that right?
04:21 PM16 MR. ROBERT RAIVES: That is right.
04:21 PM17 COMMISSIONER SENN: Would you take these percentages and
04:21 PM18 make them into real numbers for me? How many policies
04:21 PM19 were sold in Europe by Zurich pre war?
04:21 PM20 MR. ROBERT RAIVES: In Europe or in Germany and
04:21 PM21 German-occupied countries? Because, I mean, obviously
04:21 PM22 they sold a lot in Switzerland -- I don't know how many --
04:21 PM23 but in Germany and German-occupied countries we're talking
04:22 PM24 about two companies, what was then known as Vita Life,
04:22 PM25 V-i-t-a, which is now known as Zurich Life, and then Vita

04:22 PM 1 Life sold a total of 7,000 policies during the entire '33
04:22 PM 2 to '45 period. Or actually prior to '33, going back into
04:22 PM 3 the twenties. Aggripina, which Zurich acquired in 1969,
04:22 PM 4 sold approximately 15,000 policies during that same
04:22 PM 5 period. So we're talking a total of 22,000 between the
04:22 PM 6 two companies.

04:22 PM 7 COMMISSIONER SENN: Now, on September 15th, when the
04:22 PM 8 Commission asked for companies to bring their list of
04:22 PM 9 policy holders, how many did Zurich submit to the
04:22 PM10 Commission?

04:22 PM11 MR. ROBERT RAIVES: Unpaid Holocaust related claims, is
04:23 PM12 what you're referring to? Because that's what we were
04:23 PM13 asked for.

04:23 PM14 COMMISSIONER SENN: Okay.

04:23 PM15 MR. ROBERT RAIVES: And we reported 22 such policies
04:23 PM16 between the two companies. Twenty were German insureds,
04:23 PM17 and two were French insureds.

04:23 PM18 COMMISSIONER SENN: How do you define unpaid claims?

04:23 PM19 MR. ROBERT RAIVES: Unpaid claims were defined as claims
04:23 PM20 on which no payment had been made to an insured or
04:23 PM21 beneficiary.

04:23 PM22 And anticipating, if I may, your next question, we
04:23 PM23 did not include blocked accounts, because it's been the
04:23 PM24 company's position, as you heard Mr. Thalmann announce for
04:24 PM25 his company, that a payment into a blocked account was

04:24 PM 1 considered a paid policy, and that if the insured didn't
04:24 PM 2 receive that money, it became a banking issue and was
04:24 PM 3 subject to full restitution under the German restitution
04:24 PM 4 program. That's our position.

04:24 PM 5 It is undecided within the International
04:24 PM 6 Commission, because there has been no agreement on that,
04:24 PM 7 and you heard Bobby Brown take the opposite position.
04:24 PM 8 Chairman Eagleburger has that for his decision now, and I
04:24 PM 9 am not prepared to say that we will not, if a decision
04:24 PM10 goes against us, accept we are prepared to revisit it
04:24 PM11 after we hear it.

04:24 PM12 We have made our position clear, and now we are
04:24 PM13 waiting for the other shoe to drop.

04:25 PM14 DEPUTY COMMISSIONER COOPERSMITH: Mr. Raives, how many
04:25 PM15 blocked accounts are we talking about?

04:25 PM16 MR. ROBERT RAIVES: To the best of my knowledge, we -- let
04:25 PM17 me see. We have no present record of any blocked
04:25 PM18 accounts. We have some confiscated accounts, but
04:25 PM19 confiscated accounts are recognized as a humanitarian
04:25 PM20 situation under the MOU. As far as I know, as I sit here
04:25 PM21 testifying, we have no blocked accounts.

04:25 PM22 COMMISSIONER SENN: How many confiscated accounts?

04:25 PM23 MR. ROBERT RAIVES: There are a total of 16 confiscated
04:25 PM24 accounts.

25 DEPUTY COMMISSIONER COOPERSMITH: So 16, total.

04:25 PM 1 COMMISSIONER SENN: So you've determined that the other
04:25 PM 2 21-plus-thousand are paid?
04:26 PM 3 MR. ROBERT RAIVES: Those are the only unpaid Holocaust
04:26 PM 4 related claims.
04:26 PM 5 COMMISSIONER SENN: How did you make that determination?
04:26 PM 6 MR. ROBERT RAIVES: We looked at every file. We looked at
04:26 PM 7 every unpaid file. We don't have every file, but we have
04:26 PM 8 every unpaid file, because the law required us to retain
04:26 PM 9 unpaid files.
04:26 PM10 COMMISSIONER SENN: Of the 22,00 policies, how many are
04:26 PM11 unpaid files?
04:26 PM12 MR. ROBERT RAIVES: Non-Holocaust related? I'm sorry. I
04:26 PM13 don't have that figure. I'm sure I could get it for you.
04:26 PM14 COMMISSIONER SENN: Why don't you get that for us?
04:26 PM15 MR. ROBERT RAIVES: I would be happy to.
04:26 PM16 DEPUTY COMMISSIONER COPPERSMITH: The answer to the
04:26 PM17 insurance question regarding the process by which you made
04:26 PM18 these determinations, I notice in the written statement
04:26 PM19 that you have submitted on behalf of the company at this
04:26 PM20 hearing, you say that the company named an internal task
04:27 PM21 force, and that that task force used very broad
04:27 PM22 definitions and interpretations. Can you share those
04:27 PM23 definitions and interpretations with us?
04:27 PM24 MR. ROBERT RAIVES: Well, in terms of both deciding
04:27 PM25 whether a policy was Holocaust related, we just used every

04:27 PM 1 possible criteria we could dredge up, and then if there
04:27 PM 2 was still some doubt, we put it in.

04:27 PM 3 DEPUTY COMMISSIONER COOPERSMITH: Well, we will ask you,
04:27 PM 4 then, to submit in writing what protocol you used to
04:27 PM 5 establish, in your judgment, whether a policy was paid or
04:27 PM 6 not.

04:27 PM 7 MR. ROBERT RAIVES: Which was paid or which was Holocaust
04:27 PM 8 related?

04:27 PM 9 DEPUTY COMMISSIONER COOPERSMITH: Both -- i'm sorry --
04:27 PM10 Holocaust related and whether it was paid or not.

04:27 PM11 MR. ROBERT RAIVES: I think I've already stated that an
04:27 PM12 unpaid policy was one in which no payment had been paid to
04:27 PM13 an insured or a beneficiary. That is the criteria for --

04:28 PM14 DEPUTY COMMISSIONER COOPERSMITH: We would just like to
04:28 PM15 have that in writing, Mr. Raives. As I say, you also have
04:28 PM16 in this second numbered statement in the written material
04:28 PM17 that you submitted, you have said that you employed broad
04:28 PM18 definitions and interpretations, and --

04:28 PM19 MR. ROBERT RAIVES: Where are you reading from?

04:28 PM20 DEPUTY COMMISSIONER COOPERSMITH: From the second numbered
04:28 PM21 statement in the written return submitted prior to the
04:28 PM22 commencement of the hearing, in which you state that a
04:28 PM23 task force was established to systematically review all
04:28 PM24 company records --

04:28 PM25 MR. ROBERT RAIVES: Yes.

04:28 PM 1 DEPUTY COMMISSIONER COOPERSMITH: To determine who might
04:28 PM 2 be a victim of the Holocaust, and you state that you used
04:28 PM 3 very broad definitions and interpretations, and I'm asking
04:28 PM 4 that such interpretations and definitions be submitted in
04:28 PM 5 writing for insurance review.

04:29 PM 6 Mr. Raives, you also mention in the third numbered
04:29 PM 7 statement that you retained two independent audit firms.
04:29 PM 8 We would like to see the reports that those audit firms
04:29 PM 9 made, sir, with relation to the Holocaust claims. Can we
04:29 PM10 expect to have that submitted to us?

04:29 PM11 MR. ROBERT RAIVES: I don't know if I can answer that on
04:29 PM12 behalf of the company. I will certainly relay your
04:29 PM13 request. I don't know the element of confidentiality. I
04:29 PM14 don't even know if the reports exist. Two independent
04:29 PM15 auditors verified our methodology and looked into the
04:29 PM16 files themselves. We now are involved with a third
04:29 PM17 independent auditor through the ICHEIC process.

04:30 PM18 DEPUTY COMMISSIONER COOPERSMITH: Well, Mr. Raives, you
04:30 PM19 clearly seem to be very satisfied with the company's level
04:30 PM20 of cooperation in this process, is that correct?

04:30 PM21 MR. ROBERT RAIVES: Yes.

04:30 PM22 DEPUTY COMMISSIONER COOPERSMITH: So what would your
04:30 PM23 reluctance be, then, to share the results of the
04:30 PM24 independent audit?

04:30 PM25 MR. ROBERT RAIVES: Number 1, I don't know if reports

04:30 PM 1 exist. And, number 2, it's simply not within my authority
04:30 PM 2 to say yes or no.
04:30 PM 3 DEPUTY COMMISSIONER COOPERSMITH: And whose authority
 4 would that be?
04:30 PM 5 MR. ROBERT RAIVES: It would be the home office's
04:30 PM 6 authority.
04:30 PM 7 DEPUTY COMMISSIONER COOPERSMITH: If there are -- so you
04:30 PM 8 don't even know if reports exist. But obviously there
04:30 PM 9 were findings made by these audit firms, correct?
04:30 PM10 MR. ROBERT RAIVES: I'm sorry?
04:30 PM11 DEPUTY COMMISSIONER COOPERSMITH: There were findings made
04:30 PM12 by these audit firms? There must have been something in
04:30 PM13 writing, you would think, given your statement that the
04:30 PM14 audit firms reviewed the work of your task force.
04:30 PM15 MR. ROBERT RAIVES: They absolutely did. I don't know
04:30 PM16 whether there is anything in writing, and I don't think I
04:31 PM17 should speculate on that. I mean, either there was or
04:31 PM18 there wasn't.
04:31 PM19 DEPUTY COMMISSIONER COOPERSMITH: We will be asking for
04:31 PM20 that material.
04:31 PM21 COMMISSIONER SENN: Mr. Raives, have you constructed a
04:31 PM22 corporate family tree?
04:31 PM23 MR. ROBERT RAIVES: I'm sorry, would you repeat the
04:31 PM24 question?
04:31 PM25 COMMISSIONER SENN: Have you constructed a corporate

04:31 PM 1 family tree?

04:31 PM 2 MR. ROBERT RAIVES: Yes, we have, and I think we've

04:31 PM 3 furnished it to the International Commission, and I assume

04:31 PM 4 it's available to you. And, as I said earlier, the

04:31 PM 5 relevant parts are the Vita Life and Aggripina.

04:31 PM 6 COMMISSIONER SENN: And I'm going to ask you, and I will

04:31 PM 7 ask all the companies for their corporate family trees,

04:31 PM 8 and I haven't said that to the affiliated companies, so we

04:31 PM 9 can see that.

04:31 PM10 MR. ROBERT RAIVES: I would assume as a signatory to the

04:31 PM11 MOU and a supporter of the IC process that you ought to be

04:32 PM12 able to get that from them, as well.

04:32 PM13 COMMISSIONER SENN: You know, we're going to ask the

04:32 PM14 companies directly for it.

04:32 PM15 MR. ROBERT RAIVES: That's fine. We have no problem.

04:32 PM16 COMMISSIONER SENN: Our law requires Zurich to give my

04:32 PM17 office a list of policy holders for policies in effect

04:32 PM18 from 1933, to 1945. What you have told me is that the

04:32 PM19 Commission asked for unpaid policies. But my law asks for

04:32 PM20 all policies during that period of '33 to '45. So when

04:32 PM21 can I expect to receive that list from Zurich?

04:32 PM22 MR. ROBERT RAIVES: Well, first of all, we are, at least

04:32 PM23 at the moment, suspended from those requirements, as I

04:32 PM24 understand it. Secondly, we think that, for example --

04:33 PM25 are you asking for all the policies Zurich has written in

04:33 PM 1 Switzerland during those years?

04:33 PM 2 COMMISSIONER SENN: No. I think we're asking for the

04:33 PM 3 22,000 in Germany and in German-occupied Europe, the ones

04:33 PM 4 that you mentioned.

04:33 PM 5 MR. ROBERT RAIVES: Whether they are paid or unpaid?

04:33 PM 6 COMMISSIONER SENN: That's what our law says.

04:33 PM 7 MR. ROBERT RAIVES: And whether they are Holocaust related

04:33 PM 8 or not?

04:33 PM 9 COMMISSIONER SENN: That's correct. And let me just say

04:33 PM10 to you and to all of the companies, if you could show us

04:33 PM11 to our satisfaction that they are paid, they are not

04:33 PM12 Holocaust related, then, you know, we're not interested in

04:33 PM13 those policies either. But we cannot take your word for

04:33 PM14 it what's paid and unpaid. I don't think that law allows

04:33 PM15 that.

04:33 PM16 MR. ROBERT RAIVES: So that if you can't take our word for

04:33 PM17 it, how can we show you?

04:33 PM18 DEPUTY COMMISSIONER COOPERSMITH: You simply submit all of

04:33 PM19 the policy holders.

04:33 PM20 COMMISSIONER SENN: You can show us, but you can't tell us

04:33 PM21 to take your word for it, which you have done with us --

04:34 PM22 tried to do with us today and the Commission.

04:34 PM23 Look, the Commission hasn't looked at Zurich's

04:34 PM24 22,000 policies and decided that there were six unpaid and

04:34 PM25 one related to the Holocaust. They took your word for it.

04:34 PM 1 MR. ROBERT RAIVES: No, because they're auditing it.
04:34 PM 2 They're not taking our word for it. We are not subjecting
04:34 PM 3 ourselves to a third audit.
04:34 PM 4 DEPUTY COMMISSIONER COOPERSMITH: Mr. Raives, the
04:34 PM 5 Commissioner was not faulting you or the company for
04:34 PM 6 failing to submit the names up to now. You operate under
04:34 PM 7 the safe harbor exemption, and now we are evaluating
04:34 PM 8 whether that exemption should be extended.
04:34 PM 9 So she has asked you whether she can expect to get
04:34 PM10 names submitted to her office.
04:34 PM11 MR. ROBERT RAIVES: You mean if it's suspended -- if the
12 suspension is discontinued?
04:34 PM13 DEPUTY COMMISSIONER COOPERSMITH: When can we expect to
04:34 PM14 have the names submitted to the agency?
04:34 PM15 MR. ROBERT RAIVES: Even with the safe harbor?
04:34 PM16 DEPUTY COMMISSIONER COOPERSMITH: Well, from this point
04:34 PM17 forward. Again, the Commissioner is not criticizing
04:35 PM18 Zurich for failing to submit it up until this point. The
04:35 PM19 question is whether the company will now submit it, and
04:35 PM20 when can we expect it?
04:35 PM21 MR. ROBERT RAIVES: You know, I'm really having trouble
04:35 PM22 understanding what you're asking. I thought the safe
04:35 PM23 harbor meant that we were excused while it persisted from
04:35 PM24 supplying these, this kind of information. What otherwise
04:35 PM25 is the meaning of safe harbor?

04:35 PM 1 COMMISSIONER SENN: Let me try to answer that question for
04:35 PM 2 you, and let me pose a dilemma that I have.

04:35 PM 3 It has been the assumption about safe harbor that
04:35 PM 4 the Commission would, in a sense, stand in the shoes of
04:35 PM 5 the states and carry out the MOU, which included
04:35 PM 6 publication of names. We still think that that principle
04:36 PM 7 applies, because that is how survivors are going to find
04:36 PM 8 out they have policies, very simply.

04:36 PM 9 So here I am a year after the law was passed, the
04:36 PM10 safe harbor has been suspended by the law, the question is
04:36 PM11 whether I reinstate it, and the law asks for a registry of
04:36 PM12 all policy holder names. If you are not going to give
04:36 PM13 that registry to the Commission, and you're going to
04:36 PM14 define -- you're going to define what are the unpaid
04:36 PM15 policies, and the Commission has got six, then I've got to
04:36 PM16 really say to myself, gee, does that really comply with
04:36 PM17 the intent and the language of the statute and the
04:36 PM18 principles underlying the passage of the statute?

04:36 PM19 So either you've got give all 22,000 names to the
04:36 PM20 Commission, and we have to be satisfied that the
04:36 PM21 Commission has got it, and the Commissions has got to
04:37 PM22 process it to get our claims paid or we have to say the
04:37 PM23 Commission isn't living up to the expectations of the
04:37 PM24 statute. Not that the Commission is subject to the
04:37 PM25 statute. The companies are. But the Commission isn't

04:37 PM 1 living up with to the expectations of the process
04:37 PM 2 anticipated by the statute, and therefore we have to
04:37 PM 3 suspend safe harbor or not reinstate it. So those are
04:37 PM 4 kind of my two options.

04:37 PM 5 Maybe rambling around in everybody's mind or in
04:37 PM 6 our minds there is a third option, and that is we
04:37 PM 7 reinstate safe harbor, but at the same time, the companies
04:37 PM 8 are not -- the Commission's process doesn't comply with
04:37 PM 9 everything the companies are required to do under the
04:37 PM10 statute, so at the same time we reinstate safe harbor --
04:37 PM11 MR. ROBERT RAIVES: Not as safe as safe.

04:38 PM12 COMMISSIONER SENN: Not as safe as safe. We say we'll
04:38 PM13 reinstate the safe harbor, as long as you give us the list
04:38 PM14 of names, and the rest of the things the Commission is
04:38 PM15 doing is fine. Do you understand what I'm saying?

16 MR. ROBERT RAIVES: Yes.

04:38 PM17 COMMISSIONER SENN: The dilemma that I'm faced with and
04:38 PM18 the thought process of how to try to resolve it.

04:38 PM19 MR. ROBERT RAIVES: The companies have -- the IC companies
04:38 PM20 have significant dilemmas, too, just in terms of the
04:38 PM21 enormous amount of time that we're spending on the IC
04:38 PM22 process, now on the German initiative process and the
04:38 PM23 regulatory process.

04:38 PM24 We will, and we always have, and I'm sure you know
04:38 PM25 that, make every good faith effort to comply with the

04:38 PM 1 applicable provisions of your statute. We would hope,
04:38 PM 2 based on Chairman Eagleburger's position, Bobby Brown's
04:39 PM 3 position, Secretary Eizenstat's position, that you could
04:39 PM 4 find it in your heart to give the process a chance to
04:39 PM 5 work.

04:39 PM 6 I mean, there's been an awful lot that has gone
04:39 PM 7 into it in the last year, plus, and we're ready to go on
04:39 PM 8 it now, and we think it would be unfortunate if you were
04:39 PM 9 to revoke safe harbor at this point in time.

04:39 PM10 DEPUTY COMMISSIONER COOPERSMITH: Why not make it simpler
04:39 PM11 on all parties concerned? Why not simply turn over the
04:39 PM12 names?

04:39 PM13 MR. ROBERT RAIVES: It's not simply anything. You're
04:39 PM14 asking for a tremendous amount of information.

04:39 PM15 DEPUTY COMMISSIONER COOPERSMITH: 22,000 policies
04:39 PM16 identified.

04:39 PM17 MR. ROBERT RAIVES: 22,000 policies, and, you know, and
04:39 PM18 the provisions of your statutes are very demanding -- very
04:39 PM19 demanding, and --

04:39 PM20 COMMISSIONER SENN: Mr. Raives, I don't mean to interrupt
04:40 PM21 you, but, you know, Avotaynu Magazine is run by two
04:40 PM22 people. It's a Jewish genealogy magazine, and it's run by
04:40 PM23 two people --

24 MR. ROBERT RAIVES: Which magazine?

04:40 PM25 COMMISSIONER SENN: Avotaynu, which means our father,

04:40 PM 1 it's a magazine of genealogy. With a couple of volunteers
04:40 PM 2 they got a hold of the Austrian archives, and put them on
04:40 PM 3 a disk, and they put them on the internet, and it was --
04:40 PM 4 how many? They put up 50,000 names, and did it in two or
04:40 PM 5 three months.

04:40 PM 6 MR. ROBERT RAIVES: We're not just talking about names
04:40 PM 7 her, as I was pointing out. There were a lot more than
8 names.

04:40 PM 9 COMMISSIONER SENN: There were names. There were birth
04:40 PM10 dates. You know, a couple of volunteers managed to do it
04:40 PM11 when they set their mind to it.

04:40 PM12 MR. ROBERT RAIVES: Well, a couple of volunteers.

04:40 PM13 DEPUTY COMMISSIONER COOPERSMITH: When you're a
14 sophisticated multi-national --

15 MR. ROBERT RAIVES: Pardon?

16 DEPUTY COMMISSIONER COOPERSMITH: You're representing a
04:41 PM17 sophisticated multi-national corporation. The obligations
04:41 PM18 of our statute are clear. Again, what is the great
04:41 PM19 difficulty in turning over the names? You say you've
04:41 PM20 invested so much time in this process. Why not expedite
04:41 PM21 it for everyone and turn over the names?

04:41 PM22 MR. ROBERT RAIVES: I don't know that this really
04:41 PM23 expedites it. And the terms of your statute aren't clear.
04:41 PM24 We are presently blessed with a safe harbor from the terms
04:41 PM25 of your statute. And coming at this particular time, it's

04:41 PM 1 terribly stressful.

04:41 PM 2 But, you know, we will make, if we are required

04:41 PM 3 to, every good faith effort to do what we are asked to do.

04:41 PM 4 I can't tell you any more than that.

04:41 PM 5 DEPUTY COMMISSIONER COOPERSMITH: We appreciate that,

04:41 PM 6 Mr. Raives. But that wasn't the question.

04:41 PM 7 MR. ROBERT RAIVES: No, that was the answer.

04:41 PM 8 DEPUTY COMMISSIONER COOPERSMITH: The question remains.

04:41 PM 9 What is -- help us as regulators to identify what the

04:42 PM10 difficulty is for you in submitting the names.

04:42 PM11 MR. ROBERT RAIVES: I am told it's a very onerous job.

04:42 PM12 I'm not in the administration. And these policies exist

04:42 PM13 in four different areas, four different countries. You

04:42 PM14 know, it's just not sit down with two volunteers, with all

04:42 PM15 due respect, and bang them out.

04:42 PM16 DEPUTY COMMISSIONER COOPERSMITH: You do not know the

04:42 PM17 22,000 policies that are at issue here?

04:42 PM18 MR. ROBERT RAIVES: Pardon?

19 DEPUTY COMMISSIONER COOPERSMITH: Do you not know -- how

04:42 PM20 do you get the number 22,000?

04:42 PM21 MR. ROBERT RAIVES: Because it was given to me. I didn't

04:42 PM22 count them.

04:42 PM23 COMMISSIONER SENN: Okay, I think that unless you have

04:42 PM24 anything else, we have one last quick question.

04:42 PM25 MR. ROBERT RAIVES: I've heard that before.

04:43 PM 1 COMMISSIONER SENN: What did you say?
04:43 PM 2 MR. ROBERT RAIVES: I said I've heard that one last quick
04:43 PM 3 question before.
04:43 PM 4 COMMISSIONER SENN: We have none. Thank you, Mr. Raives.
04:43 PM 5 MR. ROBERT RAIVES: That, I haven't heard before. Thank
04:43 PM 6 you very much.
04:43 PM 7 DEPUTY COMMISSIONER COPPERSMITH: Thank you for your
04:43 PM 8 testimony. We will also be submitting a letter to your
04:43 PM 9 company, as well. Thank you.

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Testimony Of Generali Representatives

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COMMISSIONER SENN: All right, let's see, it's Generali.
04:43 PM14 MR. CHRISTOPHER CARNICELLI: Good evening, Commissioner.
04:43 PM15 For the record, my name is Chris Carnacelli, and I am
04:43 PM16 President and CEO of Generali's United States branch in
04:44 PM17 New York. Joining me is Marco Schnabl, with the law firm
04:44 PM18 of Skadden Arps, representing Generali.

04:44 PM19 I just wanted to state that we had previously
04:44 PM20 submitted a statement, along with some of the statistical
04:44 PM21 information you had requested, and we made that part of
04:44 PM22 the record.

04:44 PM23 DEPUTY COMMISSIONER COOPERSMITH: Can you forgive us for
04:44 PM24 one minute?

25

COMMISSIONER SENN: I'm sorry, could you just spell your

1 name, please?

2 MR. CHRISTOPHER CARNICELLI: Carnicelli,

3 C-a-r-n-i-c-e-l-l-i.

4 COMMISSIONER SENN: Thank you.

04:44 PM 5 MR. CHRISTOPHER CARNICELLI: Commissioner, I guess in an

04:44 PM 6 effort to expedite things, we got your list of four

04:44 PM 7 questions, and if you would like, I'll give you an

04:44 PM 8 overview of the statistical information that we have, and

04:44 PM 9 then, if you wish, you can ask questions based on the

04:44 PM10 information that I have.

04:44 PM11 COMMISSIONER SENN: Actually, let me just go in the order.

04:44 PM12 Maybe it would be neater for us go in the order we're

04:45 PM13 going in. So let's start with Fast-Track, and I will just

04:45 PM14 ask a general question. You say you have statistical

04:45 PM15 information. How many Fast-Track claims has your company

04:45 PM16 received and handled? How many have you paid? How many

04:45 PM17 have you rejected?

04:45 PM18 MR. CHRISTOPHER CARNICELLI: Well, the term Fast-Track, as

04:45 PM19 we've been using it today, is a little bit, I guess, of a

04:45 PM20 misnomer, for a couple of different reason. The

04:45 PM21 Fast-Track, as I understood it, was first envisioned prior

04:45 PM22 to the time that Commissioner Eagleburger of the

04:45 PM23 International Commission enunciated his Decision

04:45 PM24 Memorandum of August 6th of this year. So the Fast-Track

04:45 PM25 was originally envisioned as the companies making offers

04:45 PM 1 of payment, and then at the time the International
04:45 PM 2 Commission came up with a formula there would be a top up,
04:45 PM 3 as I recall the term Fast-Track.
04:45 PM 4 COMMISSIONER SENN: It would be what?
04:46 PM 5 MR. CHRISTOPHER CARNICELLI: It would be topped up, based
04:46 PM 6 on what the International Commission formula came up with,
04:46 PM 7 in the event that the offers made by the companies were
04:46 PM 8 not as generous as the International Commission formula.
04:46 PM 9 Then you stated that the Fast-Track was the most
04:46 PM10 well-documented claims, which I think was originally
04:46 PM11 envisioned, but it turned out that the Fast-Track claims
04:46 PM12 which we are now processing are not necessarily the ones
04:46 PM13 with the most documentation, but are just the ones that
04:46 PM14 are being submitted in the normal course of events.
04:46 PM15 COMMISSIONER SENN: Okay. So how many?
04:46 PM16 MR. CHRISTOPHER CARNICELLI: What we have is Generali has
04:46 PM17 had a policy information center in place since 1997, and
04:46 PM18 that policy information center, which has a 1-800 number,
04:46 PM19 has been -- it is set up for individuals, Holocaust
04:46 PM20 survivors and their family members, to make inquiries of
04:47 PM21 Generali as to whether or not there is a policy which
04:47 PM22 matches up with Generali's data base. Since 1997, we have
04:47 PM23 received 1,918 inquiries to the policy information center.
04:47 PM24 COMMISSIONER SENN: 1,900 and how many?
25 MR. CHRISTOPHER CARNICELLI: 1,918.

04:47 PM 1 COMMISSIONER SENN: Okay.

04:47 PM 2 MR. CHRISTOPHER CARNICELLI: Of the 1,918, and that's --

04:47 PM 3 the 1,918 is total number of inquires as of December 1,

04:47 PM 4 1999. Of the 1,918, there were 1050 of those inquires, in

04:47 PM 5 which, based on a search of the data base of Generali, no

04:47 PM 6 documents or records could be found to locate a policy.

04:48 PM 7 There have been 868 claimants of the 1,918, for

04:48 PM 8 whom policies have been identified. Of those 868,

04:48 PM 9 Chairman Eagleburger issued the Decision Memorandum in

04:48 PM10 August of this year, and since that time we have commenced

04:48 PM11 the process of making offers pursuant to the Eagleburger

04:48 PM12 formula. In fact, Generali was the first company to

04:48 PM13 announce that it was going to make Fast-Track offers. And

04:48 PM14 as of January 12th of this year, Generali has made offers

04:48 PM15 of payments on 127 policies -- I'm sorry -- 127 offers of

04:49 PM16 payment, which includes 152 policies. The total value of

04:49 PM17 those offers, to date, is \$1,743,672.68. The average size

04:49 PM18 of the offer is \$13,729.71.

04:49 PM19 COMMISSIONER SENN: What's your high, and what's your low?

04:49 PM20 MR. CHRISTOPHER CARNICELLI: There is a minimum pursuant

04:49 PM21 to the International Commission formula, I believe, of

04:49 PM22 \$2,000. So that would be the low, and I don't have

04:49 PM23 precisely what the high is. I do have a spreadsheet of

04:49 PM24 claims offers made to United States residents, which I can

04:49 PM25 make available to you, which shows the range. But they

04:50 PM 1 range from \$2,000 to, you know, I've seen some for \$60,000
2 or \$70,000.

04:50 PM 3 COMMISSIONER SENN: Of this 127 offers of payment, how
04:50 PM 4 many of them were under the auspices of the \$12 million
04:50 PM 5 fund in Israel?

04:50 PM 6 MR. CHRISTOPHER CARNICELLI: This is excluding the
04:50 PM 7 Generali fund in Israel. The Generali fund in Israel is
04:50 PM 8 set up with an independent board of trustees, which has
04:50 PM 9 been making payments for several years now.

04:50 PM10 Generali does not control the payments, but it's
04:50 PM11 my understanding that that fund has also made payments of
04:50 PM12 well over \$1 million, to date.

04:50 PM13 COMMISSIONER SENN: Of the 127 offers, how many have been
14 accepted?

04:51 PM15 MR. CHRISTOPHER CARNICELLI: As Mr. Lefkin stated earlier,
04:51 PM16 a lot of these offers are recent offers, due to the fact
04:51 PM17 that the International Commission formula was not
04:51 PM18 promulgated until August of this year, and there were
04:51 PM19 numerous questions which needed to be amplified, which
04:51 PM20 were amplified in November of this year. So numerous of
04:51 PM21 these offers are recent, and the spreadsheet also -- that
04:51 PM22 I can make available to you -- shows the dates of these
04:51 PM23 offers.

04:51 PM24 But to answer your actual questions, there have
04:51 PM25 been 24 actual payments issued to date, for a total of

1 \$370,802.51.

04:51 PM 2 COMMISSIONER SENN: Will you supply us with this

04:51 PM 3 spreadsheet?

04:51 PM 4 MR. CHRISTOPHER CARNICELLI: I have a spreadsheet with me

04:51 PM 5 which I can go over with your staff. I can provide it,

6 sure, in the next several days.

04:51 PM 7 COMMISSIONER SENN: We will find a copy machine somewhere

04:52 PM 8 in the building, so we will get it from you today.

04:52 PM 9 All right, 24 payments issued, so we still have a

10 103 --

11 MR. CHRISTOPHER CARNICELLI: 103.

04:52 PM12 COMMISSIONER SENN: On your spreadsheet does it say when

04:52 PM13 you expect to have an answer on those?

04:52 PM14 MR. CHRISTOPHER CARNICELLI: You would have to speak to

04:52 PM15 the claimants. It gives the dates of -- the spreadsheet

04:52 PM16 includes the state in which the claimant resides, the

04:52 PM17 first and last name, the insured's name on the policy, the

04:52 PM18 date of application to the policy information center, the

04:52 PM19 application number, the policy number, the date of

04:52 PM20 issuance for the policy, the country of issuance, and the

04:52 PM21 original insured amount, as well as the total payment

04:52 PM22 offer.

04:52 PM23 But generally, we've had a very positive response,

04:53 PM24 and we're taking phone calls on a daily basis, answering

04:53 PM25 questions from the claimants, because it can be,

04:53 PM 1 obviously, quite confusing.

04:53 PM 2 COMMISSIONER SENN: We haven't accounted for 741 one of

04:53 PM 3 those policies that have been identified by you.

04:53 PM 4 MR. CHRISTOPHER CARNICELLI: Well, what I have is there

04:53 PM 5 are 532 claims pending. We are now in the process of --

04:53 PM 6 it's a very thorough review, as you can imagine, of some

04:53 PM 7 very old documents, and we are making every effort to make

04:53 PM 8 sure that we are complying with the International

04:53 PM 9 Commission formula, and we anticipate that we are going to

04:53 PM10 review those claims to see if a payment is due pursuant to

04:53 PM11 the International Commission formula, and we will be

04:54 PM12 making those offers of payment for the ones that do fall

04:54 PM13 within the International Commission formula shortly.

04:54 PM14 COMMISSIONER SENN: So claims pending, meaning you're

04:54 PM15 reviewing them?

04:54 PM16 MR. CHRISTOPHER CARNICELLI: Yes.

04:54 PM17 COMMISSIONER SENN: 209 are left?

04:54 PM18 MR. CHRISTOPHER CARNICELLI: 200 are also under review.

04:54 PM19 These are ones that we are with -- people are waiting for

04:54 PM20 -- well, to clarify. The 532, we've already sent letters

04:54 PM21 to the claimants advising them that they have a policy.

04:54 PM22 The 209 are the ones in which we are now sending out

04:54 PM23 replies, still need to be replied to. And I have a

04:54 PM24 breakdown of the number of claimants per country or state

04:54 PM25 of the claimant, if you're interested in it, Commissioner.

04:54 PM 1 COMMISSIONER SENN: We are.

04:54 PM 2 MR. CHRISTOPHER CARNICELLI: The bulk, as you can imagine,

04:54 PM 3 are from Israel and the United States, but we have a

04:54 PM 4 breakdown of about 25 countries and how many claimants per

04:55 PM 5 country, and I have that information, as well.

04:55 PM 6 COMMISSIONER SENN: Okay, let's talk about the disk.

04:55 PM 7 MR. CHRISTOPHER CARNICELLI: Sure.

8 COMMISSIONER SENN: And I forgot about Fast-Track, but

9 let's talk about the disk.

04:55 PM10 DEPUTY COMMISSIONER COOPERSMITH: Let me ask a follow-up

04:55 PM11 question about Fast-Track. Just to clarify the numbers

04:55 PM12 you've provided, Mr. Carnicelli, how many of the claims

04:55 PM13 that you have paid have been paid through the Fast-Track

04:55 PM14 process?

04:55 PM15 MR. CHRISTOPHER CARNICELLI: Well, I guess it would be all

04:55 PM16 of them. I guess, as I stated, all claims are now being

04:55 PM17 paid -- are being paid, I guess, to be considered on the

04:55 PM18 Fast-Track, meaning that all claims that we make offers

04:55 PM19 to, we submit copies of the offers, along with an

04:55 PM20 valuation spreadsheet, to the International Commission.

04:56 PM21 We also submit the offer and valuation sheet to the

04:56 PM22 Commissioner in the state in which is claimant resides.

04:56 PM23 This way it functions as a check. The International

04:56 PM24 Commission can check to be sure that the valuation

04:56 PM25 standards promulgated by the International Commission are

04:56 PM 1 being followed in our offers.

04:56 PM 2 DEPUTY COMMISSIONER COOPERSMITH: So this far, in the

04:56 PM 3 entire process, only 24 payments have actually been made,

04:56 PM 4 and only 127 total offers of payment have been extended,

04:56 PM 5 is that correct?

04:56 PM 6 MR. CHRISTOPHER CARNICELLI: Would you repeat the numbers?

04:56 PM 7 DEPUTY COMMISSIONER COOPERSMITH: Sure. Only 24 payments

04:56 PM 8 have actually been paid made throughout the course of the

04:56 PM 9 entire process, and only 127 total offers of payment have

04:56 PM10 been made by Generali?

04:56 PM11 MR. CHRISTOPHER COOPERSMITH: Yes. The way you said it

04:56 PM12 makes it seem bleak. But, as I explained before, since

04:56 PM13 the majority of these offers has gone out since November,

04:56 PM14 when we had the majority of standards were amplified by

04:56 PM15 the International Commission, so it's very recent offers,

04:57 PM16 and the offers very clearly state that the individual

04:57 PM17 should give consideration, and we're getting a very, very

04:57 PM18 positive response. So I anticipate that the number of

04:57 PM19 payments will go up.

04:57 PM20 DEPUTY COMMISSIONER COOPERSMITH: Well, I mean, if this is

04:57 PM21 Fast-Track, it makes you wonder what a slow-track is.

04:57 PM22 Can you tell us -- you said that you were relying

04:57 PM23 on standards that you said were new to the company as of

04:57 PM24 November, is that correct?

04:57 PM25 MR. CHRISTOPHER CARNICELLI: That's correct.

04:57 PM 1 DEPUTY COMMISSIONER COOPERSMITH: What are those
04:57 PM 2 standards?
04:57 PM 3 MR. CHRISTOPHER CARNICELLI: The International Commission
04:57 PM 4 came up with the -- they promulgated the decision on
04:57 PM 5 August 6th, and there was a number of issues regarding,
04:57 PM 6 not only payment of premiums which needed to be decided,
04:57 PM 7 and at this point the majority of issues are now -- have
04:57 PM 8 already been decided by the Commission. So at this point,
04:58 PM 9 we anticipate that the number of offers will start -- we
04:58 PM10 will start seeing a rise in the number of offers.
04:58 PM11 DEPUTY COMMISSIONER COOPERSMITH: I guess my microphone is
04:58 PM12 not working. The question was what are the standards?
04:58 PM13 What are those standards that you've used in processing
04:58 PM14 the Fast-Track claims?
04:58 PM15 MR. CHRISTOPHER CARNICELLI: We used the International
04:58 PM16 Commission standards.
17 DEPUTY COMMISSIONER COOPERSMITH: Which are?
18 COMMISSIONER SENN: They were in the August 6th memo, is
19 that what you're saying?
04:58 PM20 MR. CHRISTOPHER CARNICELLI: An August 6th Decision
04:58 PM21 Memorandum of Laurence Eagleburger. The standards are in
04:58 PM22 there. The currencies are brought back to 1938 to US
04:58 PM23 dollars, and then a multiplier, a ten times multiplier is
04:58 PM24 attached.
04:58 PM25 DEPUTY COMMISSIONER COOPERSMITH: And how do we know that

04:58 PM 1 you are adhering to the standards?

04:58 PM 2 COMMISSIONER SENN: It's not complete.

04:58 PM 3 MR. CHRISTOPHER CARNICELLI: Along with every offer that

04:58 PM 4 we make we submit a copy of the offer, along with a very

04:58 PM 5 detailed valuation sheet. One of the things that Bobby

04:59 PM 6 Brown said he had recommended was that all companies

04:59 PM 7 provide a valuation sheet, we've been doing it from the

04:59 PM 8 beginning, which provides exactly how we calculate the

04:59 PM 9 offers. The International Commission gets copies of these

04:59 PM10 offers, along with the valuation sheet. The state

04:59 PM11 Commissioners in the state in which the claimant resides

 12 get a copy of these offers and the valuation sheet, so

04:59 PM13 everyone has an ample opportunity to review it to make

04:59 PM14 sure that the standards are being kept.

04:59 PM15 COMMISSIONER SENN: You're doing great, Mr. Carnicelli.

04:59 PM16 Let's try to make it a little bit shorter so we won't get

04:59 PM17 the longevity award here.

04:59 PM18 The August 6th memo I have in front of me. What

04:59 PM19 my staff tells me is that it's not complete. So what we

04:59 PM20 would like to do is sit down with you with a couple of

04:59 PM21 your claims -- you can mask the names -- and go through

04:59 PM22 the valuation sheet and the memo so that we see how you

04:59 PM23 are applying these standards. Okay?

05:00 PM24 MR. CHRISTOPHER CARNICELLI: Sure.

05:00 PM25 COMMISSIONER SENN: Because my staff doesn't believe that

05:00 PM 1 these are complete standards, so you're obviously using
05:00 PM 2 other standards, and we need to understand where that came
05:00 PM 3 from.
05:00 PM 4 MR. CHRISTOPHER CARNICELLI: No problem.
05:00 PM 5 DEPUTY COMMISSIONER COOPERSMITH: And is it your testimony
05:00 PM 6 that all of the Holocaust claims submitted to you are
05:00 PM 7 going to follow these standards and are going to be
05:00 PM 8 subject to audit?
05:00 PM 9 MR. CHRISTOPHER CARNICELLI: Well, there are certainly
05:00 PM10 going to be subject to audit pursuant to the International
05:00 PM11 Commission, and we are -- as I stated, we are doing our
05:00 PM12 best to follow the provisions of the Decision Memorandum
05:00 PM13 and follow the ICHEIC standards, and the insurance
05:00 PM14 commissioners and also the International Commission can
05:00 PM15 certainly check on those evaluations. We receive phone
05:00 PM16 calls and inquires on those evaluations on a daily basis
05:00 PM17 and provide explanations, and I will provide those
05:00 PM18 explanations to Commissioner Senn, as well, on any claim
19 that she has a question on.
05:01 PM20 COMMISSIONER SENN: And, in addition, we're going to ask
05:01 PM21 you to go through your 1,918 claims and identify why
05:01 PM22 claims fell out of the system. For example, I know that
05:01 PM23 Mr. Brown mentioned that claims fell out of the system
05:01 PM24 under RAS, because -- the reason given was that it was a
05:01 PM25 nationalized government, therefore the company could

05:01 PM 1 confiscate. So we want to see it and understand the
05:01 PM 2 reasons so we can have confidence that you are adhering to
05:01 PM 3 the requirements of the Commission.
05:01 PM 4 MR. CHRISTOPHER CARNICELLI: I don't understand. In terms
05:01 PM 5 of claims dropping out?
05:01 PM 6 COMMISSIONER SENN: Well, in terms of how you sifted out,
05:01 PM 7 why you sifted the 1,918 down to 1,000. You know, if it
05:01 PM 8 says Allianz on it, that's pretty obvious, right?
 9 MR. CHRISTOPHER CARNICELLI: Uh-huh.
05:01 PM10 COMMISSIONER SENN: But if it said Generali on it or it
05:01 PM11 didn't say Generali, it was a premium receipt, you know,
05:02 PM12 which you couldn't trace back, we just want to begin to
05:02 PM13 understand how you whittled down 1,918 to 1,050.
05:02 PM14 MR. CHRISTOPHER CARNICELLI: Well, we believe that
05:02 PM15 Generali is ahead of the curve, in that we have all data
05:02 PM16 on policies issued from 1918 to 1945 in Eastern Europe,
 17 Austria, Germany --
05:02 PM18 COMMISSIONER SENN: When I say 1,918, I mean the 1,918
 19 policies.
05:02 PM20 MR. CHRISTOPHER CARNICELLI: No, I understand.
05:02 PM21 COMMISSIONER SENN: Okay.
05:02 PM22 MR. CHRISTOPHER CARNICELLI: But I'm just -- it's
05:02 PM23 coincidental. But Generali has all data on policies
05:02 PM24 issued from 1918 to 1945 in Eastern Europe, Austria,
05:02 PM25 Germany, Italy, and Greece, which have all been

05:02 PM 1 computerized, which, as you can imagine, was a tremendous
05:02 PM 2 effort in terms of time, money, and resources. And so we
05:02 PM 3 are ahead of the curve, and we are able to match up the
05:02 PM 4 claims to this data base to see if there is an actual
05:02 PM 5 Generali policy which the claimant has submitted.

05:03 PM 6 COMMISSIONER SENN: Say that again. You have computerized
7 the data for what countries?

05:03 PM 8 MR. CHRISTOPHER CARNICELLI: For Eastern Europe, Austria,
05:03 PM 9 Germany, Italy, and Greece.

05:03 PM10 COMMISSIONER SENN: Go ahead.

05:03 PM11 MR. CHRISTOPHER CARNICELLI: The reason for that is that,
05:03 PM12 as you know, the vast majority of all -- almost all of the
05:03 PM13 unpaid claims are in Eastern Europe, where Generali's
05:03 PM14 assets and reserves that back the policies were
05:03 PM15 nationalized or expropriated. So Generali's position, as
05:03 PM16 you know, is that the legal obligation belongs to the
05:03 PM17 post-war governments. However, Generali has embraced a
05:03 PM18 moral commitment and is going to make payments on those
05:03 PM19 policies, despite the lack of obligation -- legal
05:03 PM20 obligation, and it's going to make offers on those
05:03 PM21 policies pursuant to the International Commission formula.

05:04 PM22 COMMISSIONER SENN: Okay, let's talk about the disk. The
05:04 PM23 first question, you have Greek policies on the disk?

05:04 PM24 MR. CHRISTOPHER CARNICELLI: I believe the answer is yes.
05:04 PM25 But we will confirm that for you.

05:04 PM 1 COMMISSIONER SENN: Mr. Brown is behind you shaking his
2 head.

05:04 PM 3 MR. BOBBY BROWN: The disk at least has basically Eastern
05:04 PM 4 Europe, with a little piece of Germany by accident that
05:04 PM 5 somehow got in, and part of Austria.

05:04 PM 6 DEPUTY COMMISSIONER COOPERSMITH: Would you mind repeating
7 that for the record?

8 COMMISSIONER SENN: What did you say, Mr. Brown, Eastern
9 Europe --

05:05 PM10 MR. BOBBY BROWN: Eastern Europe, with a little piece of
05:05 PM11 Germany, one section of Germany, and a little piece of
12 Austria.

05:05 PM13 I'm glad -- can I just say that Generali stated
05:05 PM14 earlier in the International Commission meetings that they
05:05 PM15 are working on Greece, and if they have completed Greece,
05:05 PM16 I think that is tremendous, because they didn't have
05:05 PM17 Greece previously. Italy they had, but I don't think they
05:05 PM18 had submitted, and they maintained only one or two unpaid
05:05 PM19 claims in that category.

05:05 PM20 MR. CHRISTOPHER CARNICELLI: As Mr. Brown said, I believe
05:05 PM21 they are working on Greece. It may be completed, but we
05:05 PM22 will provide that information.

05:05 PM23 COMMISSIONER SENN: So let's get to the -- let's talk
05:05 PM24 about the disk.

05:05 PM25 The disk, when Mr. -- who was your US branch

1 president?

2 MR. CHRISTOPHER CARNICELLI: Ricardo Nicolini.

05:06 PM 3 COMMISSIONER SENN: Mr. Nicolini came to my office in
05:06 PM 4 April of 1998 -- in April of 1998, the day that Generali
05:06 PM 5 answered that they were giving the disk to Yad Vashem,
05:06 PM 6 April of 1998. I was told that there were -- and I want
05:06 PM 7 to clarify this for the record -- 340,000 names on the
05:06 PM 8 disk handed to Yad Vashem. Correct?

05:06 PM 9 MR. CHRISTOPHER CARNICELLI: My understanding is that Yad
05:06 PM10 Vashem has a disk of 340,000 names for its archival
05:06 PM11 research which were provided by Generali, correct.

05:06 PM12 COMMISSIONER SENN: And that 340,000 names represents
05:06 PM13 names of policy holders during the pre-war period?

05:06 PM14 MR. CHRISTOPHER CARNICELLI: Yes. My understanding is
05:06 PM15 that that disk contains the name, the surname, and the
05:07 PM16 date of birth, at least with respect to those policies.

05:07 PM17 COMMISSIONER SENN: For what -- what is the time period?

05:07 PM18 MR. CHRISTOPHER CARNICELLI: From 1918, to 1945, is my
05:07 PM19 understanding.

05:07 PM20 COMMISSIONER SENN: Now, those are names of policy holders
05:07 PM21 from that period, and it is all life insurance?

05:07 PM22 MR. CHRISTOPHER CARNICELLI: As far as I know, I believe
05:07 PM23 it's all life insurance life.

24 MR. BOBBY BROWN: Life and dowry.

25 MR. CHRISTOPHER CARNICELLI: Dowry.

05:07 PM 1 COMMISSIONER SENN: Do you have a breakdown -- do you know
05:07 PM 2 what dowry insurance is?
05:07 PM 3 MR. CHRISTOPHER CARNICELLI: Yes.
05:07 PM 4 COMMISSIONER SENN: Oh, good. Just checking. Do you have
05:07 PM 5 a breakdown between life and dowry?
05:08 PM 6 MR. CHRISTOPHER CARNICELLI: I don't know.
05:08 PM 7 COMMISSIONER SENN: Can you get that for us? You can't
8 get it for us?
05:08 PM 9 MR. MARCO SCHNABL: We don't know.
10 COMMISSIONER SENN: You don't know?
05:08 PM11 MR. CHRISTOPHER CARNICELLI: I don't know. Does it
05:08 PM12 matter?
05:08 PM13 COMMISSIONER SENN: Yes. Of the 340,000 names, how many
05:08 PM14 do you think were paid, and how many were unpaid?
05:08 PM15 MR. CHRISTOPHER CARNICELLI: Well, there is also as of --
05:08 PM16 as of December 31, 1937, there are 90,000 policies which
05:08 PM17 were in force, and Yad Vashem also has that information.
05:08 PM18 And of those policies which were in force -- meaning
05:08 PM19 unpaid at that time, it could have been paid in subsequent
05:08 PM20 years -- they then embarked on the job of comparing the
05:08 PM21 names on that list to their vast list of individuals who
05:09 PM22 were subject to Nazi persecution, Jews and non-Jews.
05:09 PM23 COMMISSIONER SENN: Okay, let's go back. The 340,000
05:09 PM24 names were the policies in force from 1918, to 1945, is
05:09 PM25 that correct?

05:09 PM 1 MR. CHRISTOPHER CARNICELLI: Were the total number of
05:09 PM 2 policies, that's my understanding.

05:09 PM 3 COMMISSIONER SENN: In force during that time? You used
05:09 PM 4 the term in force.

05:09 PM 5 MR. CHRISTOPHER CARNICELLI: I don't know if I said in
05:09 PM 6 force. Sold. Sold.

05:09 PM 7 COMMISSIONER SENN: So what you're saying is that by 1937
05:09 PM 8 that number, if you eliminate every policy that was either
05:09 PM 9 sold or paid between 1918 and 1937, you get to 90,000
05:09 PM10 policies left. So everything prior to 1937 was either
05:09 PM11 paid or --

05:09 PM12 MR. CHRISTOPHER CARNICELLI: Yes, that's my understanding.

05:09 PM13 COMMISSIONER SENN: So you have 90,000 policies as of
05:10 PM14 1937?

05:10 PM15 MR. CHRISTOPHER CARNICELLI: As of December 31, 1937.

05:10 PM16 COMMISSIONER SENN: Now, I have to say I'm a little
05:10 PM17 confused, because you said 90,000, but I know that Yad
05:10 PM18 Vashem told the Jerusalem Post in August of 1998, that at
05:10 PM19 least 125,000 of the 340,000 names were victims of the
05:10 PM20 Holocaust.

05:10 PM21 MR. CHRISTOPHER CARNICELLI: That's the first I've ever
05:10 PM22 heard that. They're in the middle of matching -- as you
05:10 PM23 know, there are two stages of the matching process.
05:10 PM24 Originally they came back and they said that there was
05:10 PM25 5,000 certain matches. Now I understand that there are

05:10 PM 1 10,000 matches.

05:10 PM 2 COMMISSIONER SENN: You're getting ahead of me,

05:10 PM 3 Mr. Carnicelli. Let me just back up.

05:10 PM 4 I've got a report from Yad Vashem in September of

05:11 PM 5 1998. It says the preliminary exam of the disk shows

05:11 PM 6 there were more than one-third of the names were Holocaust

05:11 PM 7 victims. Okay, so we go to 90,000. So you say it is

05:11 PM 8 90,000 policies in force. So we're not concerned about

05:11 PM 9 whether they paid or unpaid, correct?

05:11 PM10 MR. CHRISTOPHER CARNICELLI: As of that date, that's

05:11 PM11 right.

05:11 PM12 COMMISSIONER SENN: And they have run them against their

05:11 PM13 lists, and there have, you're telling me, 10,000 matches?

05:11 PM14 MR. CHRISTOPHER CARNICELLI: 10,000, what they are calling

05:11 PM15 certain matches now, and right now they're trying to --

05:11 PM16 well, between 10,000 and 20,000, and they're trying to

05:11 PM17 right now narrow down the area of uncertainty between the

18 10,000 and 20,000.

05:11 PM19 COMMISSIONER SENN: Shouldn't we err on the side of

05:11 PM20 uncertainty in this process?

05:11 PM21 MR. CHRISTOPHER CARNICELLI: Well, Yad Vashem is doing the

05:11 PM22 -- is going through the process, and we are providing them

05:11 PM23 with additional information in order for them to narrow

05:12 PM24 down the areas of uncertainty.

05:12 PM25 COMMISSIONER SENN: So it's between 10,000 and 20,000?

1 MR. CHRISTOPHER CARNICELLI: That's correct.

05:12 PM 2 COMMISSIONER SENN: And you're going to give that disk to

05:12 PM 3 the Commission for publication, is that correct?

05:12 PM 4 MR. CHRISTOPHER CARNICELLI: The disk has been giving to

05:12 PM 5 Yad Vashem under the auspices of the International

05:12 PM 6 Commission.

05:12 PM 7 COMMISSIONER SENN: After Yad Vashem went through the list

05:12 PM 8 and created a new list which matches names, that list went

05:12 PM 9 to ICHEIC. Did a copy go to Generali?

05:12 PM10 MR. CHRISTOPHER CARNICELLI: I'm not aware of that.

05:12 PM11 COMMISSIONER SENN: So you don't have a copy of it?

05:12 PM12 MR. CHRISTOPHER CARNICELLI: Of the list of names now that

05:12 PM13 have been matched?

05:12 PM14 COMMISSIONER SENN: Yes.

05:12 PM15 MR. CHRISTOPHER CARNICELLI: I don't know the answer to

05:12 PM16 that question.

05:12 PM17 MR. MARCO SCHNABL: Excuse me, Commissioner. Everybody

05:12 PM18 seems surprised about that, but Yad Vashem was hired -- or

05:13 PM19 the relationship was between ICHEIC and Yad Vashem, Yad

05:13 PM20 Vashem precisely because we didn't want to be in a

05:13 PM21 position of being accused or suggested that we, in fact,

05:13 PM22 have something to do with the matching process or the

05:13 PM23 analysis. That's been left entirely in the hands of Yad

05:13 PM24 Vashem, and we are not the recipients or we have not been

05:13 PM25 in the middle of that process. So whatever result Yad

05:13 PM 1 Vashem comes out with, in their best judgment, will be
05:13 PM 2 turned over to ICHEIC, and we have already told ICHEIC
05:13 PM 3 that whatever that result is, it's free for publication
05:13 PM 4 and free for transmission to you or to any other
5 Commissioner.

05:13 PM 6 DEPUTY COMMISSIONER COOPERSMITH: But you are aware,
05:13 PM 7 Counselor, that the list of names to Yad Vashem represents
05:13 PM 8 only a fraction of the victims of the Holocaust?

05:13 PM 9 MR. MARCO SCHNABL: It is not a complete list. That's
05:13 PM10 certainly true.

05:13 PM11 DEPUTY COMMISSIONER COOPERSMITH: Has Generali undertaken
05:13 PM12 to do anything to insure that full identification of
05:13 PM13 Holocaust policy holders is being made?

05:14 PM14 MR. CHRISTOPHER CARNICELLI: Also one thing that also, I
05:14 PM15 think, goes unnoticed is that we have the policy
05:14 PM16 information center, and we have a data base. So we have
05:14 PM17 the ability, and we've been taking these claims for the
05:14 PM18 last -- inquires for the last couple of years. Anyone who
05:14 PM19 believes that they have a policy, anyone in the State of
05:14 PM20 Washington who believes that they have a policy can submit
05:14 PM21 a claim to Generali. Generali will run that name against
05:14 PM22 the data base and then be able to find out whether or not
05:14 PM23 there actually is a policy for themselves or their
24 relatives.

05:14 PM25 COMMISSIONER SENN: Right. But how can you believe you

05:14 PM 1 have a claim unless you know about it or you see your
05:14 PM 2 family's name on a list?

05:14 PM 3 MR. CHRISTOPHER CARNICELLI: Well, and that's why we have
05:14 PM 4 given the disk over.

05:14 PM 5 COMMISSIONER SENN: Yes, but you've got 90,000 policies in
05:14 PM 6 force in 1937, and you have a statute in the State of
05:14 PM 7 Washington that says to turn over the policy list for
05:14 PM 8 those policies in force from 1933 to 1945, and we know --
05:15 PM 9 you know that Yad Vashem doesn't have the name of every
05:15 PM10 Holocaust victim or survivor or family. So it's very
05:15 PM11 possible that there are Holocaust survivors as heirs or
05:15 PM12 beneficiaries listed on that list, aside from the 10,000
05:15 PM13 matches. And so our statute -- our statute envisions that
05:15 PM14 you turn that list over to us, and I guess the question is
05:15 PM15 are you going to do it?

05:15 PM16 MR. CHRISTOPHER CARNICELLI: Well, we believe that what
05:15 PM17 we've done -- the International Commission we believe is
05:15 PM18 the body in order to get an international global solution
05:15 PM19 to the problem. So the International Commission obviously
05:16 PM20 is -- is now being charged with the task of finding what
05:16 PM21 is the proper number of names and individual names that
05:16 PM22 need to be published. We are fully in support of the
05:16 PM23 publication of names, and we believe that what we have
05:16 PM24 done is far ahead of the curve and is forthcoming with
05:16 PM25 that information, and that what we've done is in

05:16 PM 1 compliance with certainly the good faith of the
05:16 PM 2 International Commission, and that those names will be
05:16 PM 3 published under the auspices of the International
05:16 PM 4 Commission.
05:16 PM 5 COMMISSIONER SENN: Let me just say this. We do recognize
05:16 PM 6 -- I mean, we do recognize that Generali has put names on
05:16 PM 7 a disk, and for that they should -- in comparison to the
05:16 PM 8 other companies, they should be recognized. There is no
05:16 PM 9 question about that.
05:16 PM10 We do recognize that you have actually paid some
05:16 PM11 claims, and are coming to us and telling us zero or 10 or
05:17 PM12 12, and that has not gone unnoticed. We do recognize that
05:17 PM13 you have come with a spreadsheet, which you're going to
05:17 PM14 talk to us about after the hearing, and that you are
05:17 PM15 willing to go through the standards that you're using. It
05:17 PM16 sounds like Generali is beginning to become invested in
05:17 PM17 the process. Now, whether it's enough to meet the
05:17 PM18 requirements of the statute, I don't want to answer that
05:17 PM19 question yet until I make a determination. But I do want
05:17 PM20 to acknowledge that and recognize you for that, because
05:17 PM21 you have put it on a disk, and you're putting the Greek
05:17 PM22 names on a disk, and that is important and impressive.
05:17 PM23 And as you probably are well aware -- you might not be
05:17 PM24 well aware -- we are the second largest Sephardic
05:17 PM25 community in the country here in Seattle, and we have had

05:18 PM 1 a number of families from Greece come to us about
05:18 PM 2 Generali, including the niece of one of Generali's general
05:18 PM 3 agents, who was actually here earlier. So we do recognize
05:18 PM 4 that.

05:18 PM 5 MR. CHRISTOPHER CARNICELLI: Sure. Thank you. And I
05:18 PM 6 would urge you that whatever claim you do have that you
05:18 PM 7 think would be Generalis', to please hand it over to us so
05:18 PM 8 we could process it as soon as possible.

05:18 PM 9 COMMISSIONER SENN: It's up to the claimants. In fact, a
05:18 PM10 number of them have been in the room today listening.

05:18 PM11 And if Axa will excuse me, I know I'm making you
05:18 PM12 all tired, but I was trying get to Generali because we had
05:18 PM13 claimants in the room for them, and I wanted to try to get
05:18 PM14 to Generali as quickly as possible.

05:18 PM15 But you recognize that we have a concern about --
05:18 PM16 and I can tell you that one of our claimants who was in
05:18 PM17 the room today who left, whose uncle was the general agent
05:19 PM18 told us about these ornate Generali policies that they had
05:19 PM19 in the family for years, which were thrown away 10 years
05:19 PM20 ago out of complete and total frustration of trying to get
05:19 PM21 them paid by Generali. And so that is why it is crucial
05:19 PM22 to get these names out, and I don't know if this family
05:19 PM23 has names registered with Yad Vashem. We need these names
05:19 PM24 published so our policy holders and our consumers in this
05:19 PM25 state can look on that list.

05:19 PM 1 So I guess the question that I think you were
05:19 PM 2 asked in California, you know, the requirements are not in
05:19 PM 3 isolation, California has a similar statute, and the
05:19 PM 4 question when asked here, and once again, you know, the
05:19 PM 5 thought process is evolving at this point in terms of
05:19 PM 6 whether we grant safe harbor or we don't grant safe harbor
05:20 PM 7 or we say to this extent safe harbor, but you've got to do
05:20 PM 8 this. Are you prepared to give us the 90,000 names?
05:20 PM 9 MR. CHRISTOPHER CARNICELLI: Well, that was the same
05:20 PM10 question we were asked in California. You're right. And
05:20 PM11 the answer is we joined the International Commission to
05:20 PM12 come up with a global solution. There are different
05:20 PM13 statutes in different states, and we are a law abiding
05:20 PM14 company, and we are certainly going to look into all of
05:20 PM15 those statutes and avail ourselves of all of our rights,
05:20 PM16 but we believe that the International Commission is the
05:20 PM17 process by which the global list should be published.
05:20 PM18 DEPUTY COMMISSIONER COOPERSMITH: You are certainly
05:20 PM19 entitled to your personal belief, but the Commissioner has
05:20 PM20 an independent obligation, it is set forth clearly in the
05:20 PM21 statute, and she asked you a clear question.
05:20 PM22 MR. CHRISTOPHER CARNICELLI: I understand that. But I
05:20 PM23 think that Generali has also -- there is also a safe
05:21 PM24 harbor in the statute for companies that are making
05:21 PM25 reasonable and good faith efforts, and the Commissioner

05:21 PM 1 has the right to look at the record of the company, and I
05:21 PM 2 think Generali's record speaks very highly of the
05:21 PM 3 contributions it has made, and we believe that by
05:21 PM 4 providing the disk and being at the forefront of making
05:21 PM 5 claims payments, that we would hope that the safe harbor
05:21 PM 6 would be extended, not only for Generali, but for all the
05:21 PM 7 companies.

05:21 PM 8 COMMISSIONER SENN: If the Commission says we want to
05:21 PM 9 publish the 90,000 names, not just the matches, would
05:21 PM10 Generali fight that?

05:21 PM11 MR. MARCO SCHNABL: We will evaluate it at the time what
05:21 PM12 we need to do. We clearly are going to obey the law. We
05:21 PM13 are law abiding. We have certain rights, and we have our
05:21 PM14 obligations. We are acting, as pointed out before, under
05:21 PM15 the safe harbor we had hoped and expected to persuade you
05:22 PM16 to continue it.

05:22 PM17 If you change the landscape, we will do what the
05:22 PM18 law requires, but I can't tell you at this point whether
05:22 PM19 we have made up our minds what will happen, if and when we
05:22 PM20 should not be able to persuade you, in fact, to continue
05:22 PM21 the safe harbor. So I don't want to play games and --

05:22 PM22 COMMISSIONER SENN: I'm not playing games. If the
05:22 PM23 Commission asks you for the 90,000 names, because the
05:22 PM24 Commission wants to publish the 90,000 names, Generali
05:22 PM25 would say yes, we'll do it?

05:22 PM 1 MR. MARCO SCHNABL: The answer is we have not reached a
05:22 PM 2 conclusion on that matter. If you put us in that
05:22 PM 3 situation we will evaluate it at that time, and will
05:22 PM 4 appreciate what our legal obligations are, and we will do
05:22 PM 5 what is it -- oh, if the International Commission asks us
6 to publish?

05:22 PM 7 COMMISSIONER SENN: Yes. There is no Commission here.
05:22 PM 8 There is only a Commissioner.

05:22 PM 9 MR. MARCO SCHNABL: I understood you to say --

05:22 PM10 COMMISSIONER SENN: The ICHEIC.

05:22 PM11 MR. MARCO SCHNABL: If ICHEIC -- we have given the list to
05:23 PM12 ICHEIC with already a blank check to publish whatever it
05:23 PM13 thinks after consulting with Yad Vashem. We have written
05:23 PM14 that.

05:23 PM15 DEPUTY COMMISSIONER COOPERSMITH: So you will not resist
05:23 PM16 publication of whatever names that ICHEIC requires?

05:23 PM17 MR. MARCO SCHNABL: Absolutely not.

05:23 PM18 COMMISSIONER SENN: Okay. No, I was referring to the
05:23 PM19 ICHEIC.

05:23 PM20 MR. MARCO SCHNABL: I apologize. I confused Commissioner
05:23 PM21 and Commission.

05:23 PM22 COMMISSIONER SENN: It's one of the joys of elected
05:23 PM23 office. There is only one of me.

05:24 PM24 Let me ask you a question. You said it was 90,000
05:24 PM25 from 1937, on. How much do you think it is from 1933 to

1 1945?

05:24 PM 2 MR. CHRISTOPHER CARNICELLI: I don't have that specific
05:24 PM 3 information. It's 90,000, but those were the in force
05:24 PM 4 policies as of the end of '37.

05:24 PM 5 DEPUTY COMMISSIONER COOPERSMITH: Can we just make sure
05:24 PM 6 we're understanding your testimony when you state
05:24 PM 7 previously that if the Commissioner requested a sample of
05:24 PM 8 the claims that you processed with that documentation,
05:24 PM 9 that you would be providing those to us?

05:24 PM10 MR. CHRISTOPHER CARNICELLI: We have -- I have offers and
05:24 PM11 valuation forms which have gone to other Insurance
05:24 PM12 Commissioners at the International Commission, and I would
05:24 PM13 be happy to share some of those, as sampling of those with
05:25 PM14 Commissioner Senn, as well, absolutely.

05:25 PM15 DEPUTY COMMISSIONER COOPERSMITH: All of the related
05:25 PM16 documentation to those particular claims? That's what we
05:25 PM17 would be seeking, so that we can understand how you went
05:25 PM18 about evaluating the claims and reaching the decisions
05:25 PM19 that you made.

05:25 PM20 MR. CHRISTOPHER CARNICELLI: Well, we have a detailed
05:25 PM21 valuation sheet that I can commit to sharing with you, and
05:25 PM22 then if you have any specific questions stemming from
05:25 PM23 that, we can certainly talk about it.

05:25 PM24 DEPUTY COMMISSIONER COOPERSMITH: Help me understand what
05:25 PM25 documentation that leaves out?

05:25 PM 1 MR. CHRISTOPHER CARNICELLI: Well, we have face pages of
05:25 PM 2 the policies in Trieste, and so we have the sum insured,
05:25 PM 3 and in some cases there may be a loan taken against the
05:25 PM 4 policy, which we have now embarked on providing
05:25 PM 5 documentation for, and we also have a register which is
05:26 PM 6 called the Stendofina (ph), which gives relevant
05:26 PM 7 information regarding the policy.

05:26 PM 8 DEPUTY COMMISSIONER COOPERSMITH: We will be asking for
05:26 PM 9 copies of those.

05:26 PM10 COMMISSIONER SENN: Did you say Aggripina?

11 MR. CHRISTOPHER CARNICELLI: Stendofina.

05:26 PM12 COMMISSIONER SENN: Let me ask you this. In the
05:26 PM13 Fast-Track process, the claims that you weeded out, were
05:26 PM14 some of them rejected because they were already paid?

05:26 PM15 MR. CHRISTOPHER CARNICELLI: My understanding is the only
05:26 PM16 ones that were rejected because they were previously paid
05:26 PM17 were ones which were prior -- which were paid prior to the
05:26 PM18 war years. In other words, there was no reduction for
05:26 PM19 someone's inability to pay premiums because of the
05:26 PM20 Holocaust. And we have taken a very generous approach to
05:26 PM21 make sure that no one was penalized for that, no claimant
05:27 PM22 would be penalized. So if a claim was rejected, it was
05:27 PM23 paid -- if a claim was paid, say, in 1934 or 1929, then it
05:27 PM24 would not be paid pursuant to the International Commission
05:27 PM25 formula.

05:27 PM 1 COMMISSIONER SENN: We've asked you for a family tree.
05:27 PM 2 Have you prepared it?
05:27 PM 3 MR. CHRISTOPHER CARNICELLI: We have a current family
05:27 PM 4 tree. I actually have a consolidated statement which
05:27 PM 5 provides a family tree as of 1997, for the company, and we
05:27 PM 6 have provided documentation to the International
05:27 PM 7 Commission regarding previous companies.
05:27 PM 8 COMMISSIONER SENN: Are policies issued by Generali owned
05:28 PM 9 subsidiaries on the list, the disk?
05:28 PM10 MR. CHRISTOPHER CARNICELLI: Well, the disk is -- well,
05:28 PM11 the Eastern European disk we operated through branches,
05:28 PM12 and so --
05:28 PM13 MR. MARCO SCHNABL: Commissioner, the family tree issue,
05:28 PM14 if it is an issue, is an issue in Generali's case for
05:28 PM15 Western Europe. But it is not an issue, because in
05:28 PM16 Western Europe the claims have been paid. In Eastern
05:28 PM17 Europe Generali operated as Generali, so there is really
05:28 PM18 no family tree issue, but we are happy to share that.
05:28 PM19 COMMISSIONER SENN: Okay. You said you've given your
05:29 PM20 family tree on your Generali branches in Eastern Europe to
05:29 PM21 ICHEIC?
05:29 PM22 MR. MARCO SCHNABL: That's correct.
05:29 PM23 MR. CHRISTOPHER CARNICELLI: To be accurate, you said
05:29 PM24 family tree of the Generali branches. That is somewhat
05:29 PM25 confusing. A family tree -- in Eastern Europe there is no

05:29 PM 1 family tree, because we operated through Generali. That's
05:29 PM 2 what I meant to say.

05:29 PM 3 COMMISSIONER SENN: Okay. And you have no objection to
05:29 PM 4 our having that?

05:29 PM 5 MR. CHRISTOPHER CARNICELLI: I think the International
05:29 PM 6 Commission has it, so you certainly can ask them for a
05:29 PM 7 copy of it.

05:29 PM 8 COMMISSIONER SENN: Can you send us a copy of it?

05:29 PM 9 MR. CHRISTOPHER CARNICELLI: I can check with our home
05:29 PM10 office and see if we can provide you a copy of that.

05:29 PM11 COMMISSIONER SENN: Anything else?

05:29 PM12 DEPUTY COMMISSIONER COOPERSMITH: That, among other
05:29 PM13 documents, will be requested from you in writing, and we
05:29 PM14 will provide you and Counsel a letter to that effect.

05:29 PM15 COMMISSIONER SENN: I think, Mr. Carnicelli, we would like
05:30 PM16 to probably see you again to go through some of these
05:30 PM17 details and meet again, so we're going to ask you to come
05:30 PM18 out here again. And we promise you the sun will shine.
05:30 PM19 Thank you very much.

05:31 PM20 DEPUTY COMMISSIONER COOPERSMITH: Thank you for your
05:31 PM21 testimony.

22 COMMISSIONER SENN: Axa is next.

23

24 Testimony Of Axa Representatives

25

05:31 PM 1 MR. TIMOTHY PARKER: My name is Tim Parker.

2 DEPUTY COMMISSIONER COOPERSMITH: Would you mind speaking

3 into the microphone, please?

05:31 PM 4 MR. TIMOTHY PARKER: My name is Tim Parker. I am an

05:31 PM 5 attorney practicing in Seattle with the law firm of Carney

05:31 PM 6 Badly. I am here assisting Axa Holdings in this process.

05:31 PM 7 With me is Mr. Phillipe Ferras, who is prepared to address

05:31 PM 8 the questions by Commissioner Senn and Deputy Commissioner

05:32 PM 9 Coopersmith. And in the interest of dismissing with the

05:32 PM10 lengthy -- Mr. Ferras on his qualifications and

05:32 PM11 expertise --

05:32 PM12 DEPUTY COMMISSIONER COOPERSMITH: Spell your client's name

05:32 PM13 for the record -- I'm sorry -- your client representative.

05:32 PM14 MR. PHILLIPE FERRAS: May I ask you to speak up?

05:32 PM15 DEPUTY COMMISSIONER COOPERSMITH: Sure. Would you spell

05:32 PM16 your name for the record, please?

05:32 PM17 MR. PHILLIPE FERRAS: My name is Phillipe Ferras,

05:32 PM18 F-e-r-r-a-s, as French.

05:32 PM19 I'm sorry. It is 3:00 in the morning in Paris, so

05:32 PM20 I apologize.

05:32 PM21 COMMISSIONER SENN: We do apologize. Had we thought of

05:32 PM22 that, we would have put you in front.

05:32 PM23 MR. PHILLIPE FERRAS: I just hope that it is like my

05:32 PM24 native language, the script can be reviewed afterwards to

05:33 PM25 check if I make any mistakes.

05:33 PM 1 COMMISSIONER SENN: Yes, you may.

05:33 PM 2 MR. PHILLIPE FERRAS: Thank you. Together with me is

3 Wendy Cooper.

05:33 PM 4 DEPUTY COMMISSIONER COOPERSMITH: What is Ms. Cooper's

05:33 PM 5 position?

05:33 PM 6 MS. WENDY COOPER: I am Senior Vice-President with

7 Equitable Life. C-o-o-p-e-r.

05:33 PM 8 COMMISSIONER SENN: We'll try to go through this very

05:33 PM 9 quickly. You do have the benefit of everybody being

10 tired.

05:33 PM11 So quickly, let's start with the Fast-Track

05:33 PM12 process. How many claims have you handled through the

05:33 PM13 Fast-Track process?

05:33 PM14 MR. PHILLIPE FERRAS: I want to give you the large answer.

05:33 PM15 May I?

05:33 PM16 COMMISSIONER SENN: Yes.

05:33 PM17 MR. PHILLIPE FERRAS: We have before the Fast-Track and

05:33 PM18 since the Fast-Track. Before the Fast-Track -- before

05:34 PM19 saying that our exposure is basically in Germany, in

05:34 PM20 France. So we have Germany. And we acquired the company

05:34 PM21 in '92, which is now called Axa Colonia. We have a number

05:34 PM22 of companies called in the name of Axa in France, and we

05:34 PM23 have also companies in Belgium. Our exposure mostly is in

05:34 PM24 Germany -- in Germany before the Fast-Track, and this can

05:34 PM25 be connected to some numbers which you received during

05:35 PM 1 this afternoon. We received 3,393. Most of them -- 3,393
05:35 PM 2 an odd number of the Federation of German Insurers, 11
05:35 PM 3 through ACPU in New York, and 49 directly to Axa Colonia.
05:35 PM 4 These 3,393 related to 3,935 persons. So we have 3,935
05:35 PM 5 victims in our files.

05:35 PM 6 There are still 44 inquiries in progress. This is
05:35 PM 7 a statement as of the end of November. I'm sorry. I
05:36 PM 8 didn't get the statement at the end of December. So 44
05:36 PM 9 are in progress, 24 with information from the people,
05:36 PM10 3,867 were concluded negatively. These people were not
05:36 PM11 insured with us. And we found 167 relating to policies in
05:36 PM12 our files. Out of this 167, we made an offer for 17
05:36 PM13 policies. Four have been accepted, 17 are yet pending.
05:37 PM14 There are 16 claims also in process, but we found them in
05:37 PM15 our archives, and there are 134 negative ones.

05:37 PM16 In 105 cases it was found that the payment had
05:37 PM17 been made to the beneficiary. In 19 cases we found that
05:37 PM18 the claim had been processed through the BEG during the
05:37 PM19 attestation program, and for 10 of them there was no
05:37 PM20 sufficient proof of any claim. This is before the
05:37 PM21 Fast-Track was launched.

05:37 PM22 Now, since the Fast-Track has been launched we
05:37 PM23 have received --

05:37 PM24 DEPUTY COMMISSIONER COOPERSMITH: Forgive me. Can you
05:38 PM25 give us how long it took for you to process those claims,

05:38 PM 1 the ones prior to Fast-Track?

05:38 PM 2 MR. PHILLIPE FERRAS: I really -- this is -- in a company
05:38 PM 3 you usually have records of how many claims you have. But
05:38 PM 4 you hardly expect certain branches like as you hardly find
05:38 PM 5 a record of how long it takes at least in your -- how long
05:38 PM 6 it takes to settle a claim. I cannot tell you. Maybe the
05:38 PM 7 information exists. I really don't know. I doubt it.

05:38 PM 8 Now that we have the names from Fast-Track we keep
05:38 PM 9 a record of when we receive the claim and when we answer.
05:38 PM10 So in Fast-Track we will be in a position to give you this
05:38 PM11 information.

05:38 PM12 For the Fast-Track we received 24 Fast-Track
05:38 PM13 claims. We have made two offers. I cannot tell you today
05:39 PM14 if those offers have been accepted or not. Those offers
05:39 PM15 have been made according to valuation standards set by the
05:39 PM16 ICHEIC. There has been 16 denials. In 9 cases the proof
05:39 PM17 was that the policy had already been paid to somebody of
05:39 PM18 the family of the claimants. In 7 cases the documents
05:39 PM19 which were given to us were insufficient proof of the
05:39 PM20 existence of the policy, and we didn't find the policy in
05:39 PM21 our data bank. In two cases we are waiting for some more
05:40 PM22 information from the claimant, and four claims are in the
05:40 PM23 process.

05:40 PM24 And to answer your question, these four claims
05:40 PM25 have been processed for less than 90 days, because the

05:40 PM 1 target with ICHEIC is that every claim -- I'm sorry --
05:40 PM 2 every claim should be processed before 90 days. This is
05:40 PM 3 for Germany.

05:40 PM 4 For France we received no Fast-Track claims. And
05:40 PM 5 the same for Belgium, no Fast-Track claims. But we have
05:40 PM 6 received directly 8 -- I'm sorry -- 11 inquiries. Three of
05:40 PM 7 them were definitely against non-Axa companies, and we
05:40 PM 8 gave the claimant the name and address of the proper
05:41 PM 9 insurer. It was given to us. For two of them we made an
05:41 PM10 offer. One already had been paid. The other I have
05:41 PM11 received news this morning that the offer was accepted.
05:41 PM12 In five cases we had no documentation, and two files are
05:41 PM13 in the process that we are looking at. So this is what I
05:41 PM14 have for the claims.

05:41 PM15 COMMISSIONER SENN: How big was Axa's book of business?

05:41 PM16 MR. PHILLIPE FERRAS: I'm sorry?

05:41 PM17 COMMISSIONER SENN: How many policy holders did Axa have
05:41 PM18 between 1933, and 1945, in Europe?

05:41 PM19 MR. PHILLIPE FERRAS: Would you please excuse me, Madam
05:41 PM20 Commissioner. You put the question to somebody earlier,
05:41 PM21 and he had not the answer, and I don't have the answer
05:42 PM22 because -- but I can find it for you. No question. We
05:42 PM23 think more in terms of market shares. We consider that
05:42 PM24 based on premiums.

05:42 PM25 In 1938, Axa Colonia had 5.7 percent of the market

05:42 PM 1 in Germany, and we had a little more than
05:42 PM 2 20 percent in Belgium, and a little more than 30 percent
05:42 PM 3 in France.
05:42 PM 4 DEPUTY COMMISSIONER COOPERSMITH: Do you have an
05:42 PM 5 approximation of how many people that represents,
05:42 PM 6 Mr. Ferras?
05:42 PM 7 MR. PHILLIPE FERRAS: The same answer in terms of
05:42 PM 8 policies. I think that -- I doubt any company can give
05:42 PM 9 you a number of people. We can find the number of
05:42 PM10 policies, because this the clear count. But number of
05:42 PM11 persons insured, I doubt it.
05:43 PM12 DEPUTY COMMISSIONER COOPERSMITH: Okay.
05:43 PM13 COMMISSIONER SENN: So you don't know how many -- well, I
05:43 PM14 mean, how much would you estimate 5.7 percent in Germany
05:43 PM15 was?
05:43 PM16 DEPUTY COMMISSIONER COOPERSMITH: In terms of number --
05:43 PM17 MR. PHILLIPE FERRAS: Would you please -- I don't have it
05:43 PM18 at hand, but I am pretty sure that I could provide you the
05:43 PM19 exact number as of December 1938. You find it in all the
05:43 PM20 books, the Axa book, which is the basic almanac for any
05:43 PM21 insurance figure. We have it. We will provide it to you,
05:43 PM22 no doubt. I will give it from these figures. But I will
05:43 PM23 not give it from our records, for the simple reason it is
05:43 PM24 60 years ago. So the archives are not there, and that
05:44 PM25 type of information, I'm not sure we have it in our own

05:44 PM 1 archives. But since it is in what are quasi-official
05:44 PM 2 documents in the period, we rely on it, and we will give
05:44 PM 3 it to you.

05:44 PM 4 The same for France. And we will give you not --
05:44 PM 5 we will give you Axa, which is composed of 22 companies, I
05:44 PM 6 think. We will give you the numbers for France.

05:44 PM 7 COMMISSIONER SENN: When Chairman Eagleburger asked that
05:44 PM 8 the companies provide a list of unpaid policies by
05:44 PM 9 September 15, 1999, how did Axa determine how many unpaid
05:44 PM10 policies they had, and what was the number they gave to
05:44 PM11 ICHEIC?

05:44 PM12 MR. PHILLIPE FERRAS: I'm sorry. Please repeat it. When
13 Eagleburger --

05:44 PM14 COMMISSIONER SENN: You provided a list of unpaid policies
05:44 PM15 on September 15, 1999 --

05:45 PM16 MR. PHILLIPE FERRAS: Thank you. He asked for unpaid
05:45 PM17 Holocaust policies. So now may I tell you the distinction
05:45 PM18 between Germany and France and Belgium?

05:45 PM19 In Germany we have -- I think that this is in the
05:45 PM20 statement we gave you before in this hearing. We have put
05:45 PM21 on an electronic data bank on all the dates about 570,000
05:45 PM22 names of policies which we could put our hands on,
05:45 PM23 policies in force between 1920 and 1945. All of them have
05:46 PM24 been scrutinized according to -- the files have been
05:46 PM25 scrutinized according to German regulator standards.

05:46 PM 1 So out of this we have made a list of all what we
05:46 PM 2 call the Holocaust files and paid. We have a list to
05:46 PM 3 date, which is 193 files. This list will be given to the
05:46 PM 4 ICHEIC in London for publication. This is --

05:46 PM 5 COMMISSIONER SENN: How many did you say?

05:46 PM 6 MR. PHILLIPE FERRAS: 193.

05:46 PM 7 COMMISSIONER SENN: Names?

05:46 PM 8 MR. PHILLIPS FERRAS: Names. Because maybe a person has
05:46 PM 9 two policies. But it must be around 200 with the number
05:47 PM10 of policies or names of policy holders. This is for
05:47 PM11 Germany.

05:47 PM12 For France and Belgium we have collected and put
05:47 PM13 on a data base -- on two different data bases all of the
05:47 PM14 unpaid policies we have. And then we have come to the
05:47 PM15 issue of matching, and this has all already -- this issue
05:47 PM16 was already touched upon before.

05:47 PM17 We have very strict laws in France regarding
05:47 PM18 matching and protection. And I would say, Madam
05:47 PM19 Commissioner, from a personal point of view, I strictly
05:47 PM20 state to these ethnic that protection -- but I come to
05:47 PM21 testimony once it is deeply rooted in our culture not to
05:48 PM22 say that anybody is of Jewish -- who is a Jew, he is of
05:48 PM23 such and such ethnic, and it is -- we hate that.

05:48 PM24 So what we did is that we asked the government,
05:48 PM25 would you please provide us with a list of Holocaust

05:48 PM 1 victims? They have to change regulations. The regulation
05:48 PM 2 was changed at the end of July. We signed with the
05:48 PM 3 government to match the names, to match this list with our
05:48 PM 4 list. This has been done. The list -- the rest of the
05:48 PM 5 matching of our list with this list, which, by the way, is
05:48 PM 6 a list of -- I assume, you know -- it was the same.
05:48 PM 7 COMMISSIONER SENN: Yes.
05:48 PM 8 MR. PHILLIPE FERRAS: It is the basis of the French list
05:49 PM 9 at Yad Vashem. This -- the result of this matching so far
05:49 PM10 has given 33 names.
05:49 PM11 COMMISSIONER SENN: Your list against Yad Vashem's list?
05:49 PM12 MR. PHILLIPE FERRAS: Yes. Well, I said for community --
05:49 PM13 it is a list of Holocaust victims.
05:49 PM14 COMMISSIONER SENN: And the list of matches 570,000, now
05:49 PM15 1,000 against his list?
05:49 PM16 MR. PHILLIPE FERRAS: No, no, no. This was Germany.
05:49 PM17 Germany -- I said Germany we put 570,000 names of policy
05:49 PM18 holders on a data bank.
05:49 PM19 COMMISSIONER SENN: But you haven't --
05:49 PM20 MR. PHILLIPE FERRAS: No. So Germany 570,000 in the data
05:49 PM21 bank, and we have received criteria of the German
05:49 PM22 regulators. This gave 193 policy names of policy holders.
05:49 PM23 Then France, we have our list of unpaid policies
05:50 PM24 with Klarsfeld's list. As far as I see, so far it gives
05:50 PM25 337 matches. But since the Gespell (ph) lists there is

05:50 PM 1 some uncertainty regarding date of birth, the surname, and
05:50 PM 2 we are doing a second round which may give some additional
05:50 PM 3 numbers.
05:50 PM 4 COMMISSIONER SENN: Wait a minute. How many unpaid
05:50 PM 5 policies in France did you match against Klarsfeld's list?
05:50 PM 6 MR. PHILLIPE FERRAS: 50,000.
05:50 PM 7 COMMISSIONER SENN: 50,000?
05:50 PM 8 MR. PHILLIPE FERRAS: Yes.
05:50 PM 9 COMMISSIONER SENN: How many of the 570,000 were from
05:50 PM10 France?
05:50 PM11 MR. PHILLIPE FERRAS: 570,000 is Germany. Not France.
12 DEPUTY COMMISSIONER COOPERSMITH: Germany?
05:50 PM13 MR. PHILLIPE FERRAS: Correct.
05:51 PM14 DEPUTY COMMISSIONER COOPERSMITH: He's treating the German
15 separate.
05:51 PM16 MR. PHILLIPE FERRAS: Germany and France are two different
05:51 PM17 cases.
05:51 PM18 COMMISSIONER SENN: How big is the French list?
05:51 PM19 MR. PHILLIPE FERRAS: Hopefully, 50,000. But I can give
05:51 PM20 it to you.
05:51 PM21 COMMISSIONER SENN: Have you taken the 570,000 list and
05:51 PM22 run it against the Yad Vashem?
05:51 PM23 MR. PHILLIPE FERRAS: No, Madam. We have been asked by
05:51 PM24 ICHEIC to look for the Holocaust victims. This was the
05:51 PM25 clear goal. We, as a company, have not to say who is a

05:51 PM 1 Holocaust victim or not. So each -- in each country we
05:51 PM 2 asked the authority which are the criteria. In France I
05:51 PM 3 told you it is a list. In Germany it was criteria, and
05:52 PM 4 the criteria were set out by the BAV, which is the German
05:52 PM 5 authority, so we used this.

05:52 PM 6 Now, if you asked me is your matching, your
05:52 PM 7 extraction -- asked the company. I keep on what you asked
05:52 PM 8 previously to a number of my -- you have not to take my
05:52 PM 9 word for it. What we did is that we asked an
05:52 PM10 international auditor, Price Waterhouse, to check what we
05:52 PM11 did, and on top of it, and it took some time, because it
05:52 PM12 is a complicated thing. And now we will have on top of it
05:52 PM13 the same type of auditor, but appointed directly by ICHEIC
05:52 PM14 and reviewing what Price Waterhouse has done and saying if
05:53 PM15 they have done the job correctly.

05:53 PM16 DEPUTY COMMISSIONER COOPERSMITH: Mr. Ferras, you
05:53 PM17 anticipate my next question. Then are you prepared to
05:53 PM18 turn over the Price Waterhouse report to the
05:53 PM19 Commissioner's office?

05:53 PM20 MR. PHILLIPE FERRAS: The Price Waterhouse report will be
05:53 PM21 reviewed by the ICHEIC auditors as soon as they start. I
05:53 PM22 assume they should start in the next quarter. But our
05:53 PM23 process is independent of the ICHEIC process.

05:53 PM24 DEPUTY COMMISSIONER COOPERSMITH: Are you prepared to
05:53 PM25 submit the Price Waterhouse report to our office?

05:53 PM 1 MR. PHILLIPE FERRAS: I am not a lawyer. Would you please
05:53 PM 2 excuse me. I really don't know. I have to ask if this is
05:53 PM 3 an acceptable thing or not. I don't know. But what I can
05:53 PM 4 tell you is that the auditors of ICHEIC will scrutinize
05:54 PM 5 what Price Waterhouse has done and probably will do some
05:54 PM 6 more -- some independent search on a more limited sampling
05:54 PM 7 of what we have done.

05:54 PM 8 DEPUTY COMMISSIONER COOPERSMITH: We have to perform our
05:54 PM 9 own scrutiny, as you understand.

05:54 PM10 COMMISSIONER SENN: Let me ask you a question, Mr. Ferras.
05:54 PM11 You mentioned -- earlier you made reference --

05:54 PM12 MR. PHILLIPE FERRAS: I'm sorry. I want to be -- because
05:54 PM13 I don't want to give you the impression that the answer is
05:54 PM14 no. I don't know.

05:54 PM15 COMMISSIONER SENN: I understand.

05:54 PM16 MR. PHILLIPE FERRAS: But if anybody of insurance
05:54 PM17 department wants to come and visit us in Paris, we will
05:54 PM18 set a meeting, no problem.

05:54 PM19 DEPUTY COMMISSIONER COPPERSMITH: We appreciate that.

05:54 PM20 MR. PHILLIPE FERRAS: I don't think I -- I don't want you
05:54 PM21 to think that we are -- I cannot tell you yes, if we are
05:55 PM22 not sure. I want to tell you the more transparent we are
05:55 PM23 the better --

05:55 PM24 DEPUTY COMMISSIONER COOPERSMITH: Let me ask you a
05:55 PM25 question. You made reference to French law. You said it

05:55 PM 1 protects disclosure of data base information, is that
05:55 PM 2 correct?
3 MR. PHILLIPE FERRAS: Yes.
05:55 PM 4 DEPUTY COMMISSIONER COOPERSMITH: Exactly what French law
05:55 PM 5 are you relying on when you say that?
05:55 PM 6 MR. PHILLIPE FERRAS: I don't know the citation, but we
05:55 PM 7 can provide that for you. And my understanding is that in
05:55 PM 8 Paris it has been translated into English. We would be
05:55 PM 9 happy to provide you with the English translation.
05:55 PM10 DEPUTY COMMISSIONER COOPERSMITH: Please. And for that
05:55 PM11 matter, since Axa obviously has a great number of German
05:55 PM12 claims, are you -- if you were going to invoke any German
05:55 PM13 laws regarding confidentiality, the Insurance Commissioner
05:55 PM14 asks that you provide us with those citations and the
05:56 PM15 English translation where they are available.
05:56 PM16 MR. PHILLIPE FERRAS: Well, may I assume that Leslie is
05:56 PM17 still --
05:56 PM18 COMMISSIONER SENN: Leslie escaped.
05:56 PM19 MR. PHILLIPE FERRAS: She escaped. I was asked the same
05:56 PM20 question in San Francisco the other day. I corrected
05:56 PM21 myself. I have the book in my office. It is in German,
05:56 PM22 in English, and French, I think. But it is a book, so I
05:56 PM23 will send it to you. Can you share it with California?
05:56 PM24 COMMISSIONER SENN: Send it to us. We'll share it with
05:56 PM25 them.

05:56 PM 1 MR. PHILLIPE FERRAS: I have it. Now, regarding the
05:56 PM 2 French, I think we have a translation and -- let me
05:56 PM 3 anticipate on your next question. Maybe I am too French.
05:56 PM 4 COMMISSIONER SENN: Never too French.
05:56 PM 5 MR. PHILLIPE FERRAS: We want -- the German list is ready,
05:56 PM 6 ready for publication.
05:57 PM 7 COMMISSIONER SENN: Good.
05:57 PM 8 MR. PHILLIPE FERRAS: The French and I have a few words.
05:57 PM 9 The French list is ready, because we made the matching.
05:57 PM10 It may be fine tuned and increased, okay, but the list --
05:57 PM11 I give you the number, because I am authorized to give you
05:57 PM12 the number. I am not authorized to keep the list within
05:57 PM13 the company, although the company did the matching on the
05:57 PM14 account on -- or on behalf of the French government, and
05:57 PM15 the list is with the French Commission.
05:57 PM16 We know from conversations we had with the
05:57 PM17 regulatory authority for that data protection they are
05:57 PM18 against publishing this. We, as Axa, have written to the
05:57 PM19 Prime Minister and various authorities, including the
05:57 PM20 Commission, would you please let us publish this list? We
05:57 PM21 have so far had no formal answer. But last week we had a
05:58 PM22 special appointment with the Commission, see if they stand
05:58 PM23 to keep them informed, and we put very clearly the
05:58 PM24 question we would like to publish the names we have.
05:58 PM25 Because I think that, as you said, if people see the

05:58 PM 1 names, then they can react. The answer was clearly no.

05:58 PM 2 And I understand why. He said immediately do you

05:58 PM 3 think that we have accepted people to be named just during

05:58 PM 4 the war? We will do -- so this is a French, I would say,

05:58 PM 5 feeling. So the answer is no. And I said to them would

05:58 PM 6 you please, number 1, explain this to the American

05:58 PM 7 regulators who are a different approach, different

05:58 PM 8 culture? Number 2, would you please sit with them on how

05:59 PM 9 the law will not be changed, no doubt, but how we can

05:59 PM10 circumvent to give you satisfaction or this is totally

05:59 PM11 beyond our control?

05:59 PM12 So I would be pleased to arrange any meeting you

05:59 PM13 would like to have with the regulatory authorities to

05:59 PM14 speed up the process. And I asked the same to Bobby

05:59 PM15 Brown, and he volunteered to do it, also. It is joint

05:59 PM16 efforts you have to make with the Jewish organizations to

05:59 PM17 convince our people where we have to publish.

05:59 PM18 COMMISSIONER SENN: We have the solution, Mr. Ferras.

05:59 PM19 MR. PHILLIPE FERRAS: Yes.

05:59 PM20 COMMISSIONER SENN: The solution is we are not asking you

05:59 PM21 to pick out who is Jewish. The solution is we are asking

05:59 PM22 you to publish the entire list. That way you don't have

05:59 PM23 to pick out who is Jewish and who isn't, if you take the

05:59 PM24 full list.

05:59 PM25 MR. PHILLIPE FERRAS: No, for Germany -- we have no

05:59 PM 1 problem for Germany. We have a problem in France and
05:59 PM 2 Belgium.

06:00 PM 3 COMMISSIONER SENN: Take the whole 55,000 and publish the
06:00 PM 4 list of the whole 55,000. You don't have to identify who
06:00 PM 5 is Jewish.

06:00 PM 6 MR. PHILLIPE FERRAS: We never considered this. We will
06:00 PM 7 ask previously because we're trying to explore any
06:00 PM 8 solution. We were asked not by you, but maybe by others,
06:00 PM 9 could you then ship out the whole list of unpaid policies?
06:00 PM10 And the answer we got from the Legion is if the purpose of
06:00 PM11 such a move to send a list out of the country is to do
06:00 PM12 what would be forbidden in France, the answer will be no.
06:00 PM13 So --

06:00 PM14 DEPUTY COMMISSIONER COOPERSMITH: What is the forbidden
06:00 PM15 act? What is forbidden in France about someone looking at
06:00 PM16 a list published on the internet or in a newspaper to
06:01 PM17 determine whether he or she may be entitled to an
06:01 PM18 insurance claim?

06:01 PM19 MR. PHILLIPE FERRAS: No, nobody is entitled to publish a
06:01 PM20 list of people who have written an insurance policy. I
06:01 PM21 mean, nobody is allowed to say. Maybe in America, but in
06:01 PM22 Europe no company would dare to put on the internet or a
06:01 PM23 newspaper this list of any policy.

06:01 PM24 I understand this is totally odd and totally out
06:01 PM25 of context. We specified of Holocaust victims, which, as

06:01 PM 1 Axa, we fully recognize. But we are here in the conflict
06:01 PM 2 of culture, and how can we go above it, and this is why we
06:01 PM 3 sought counsel.

06:01 PM 4 We are ready -- like with California, we are ready
06:02 PM 5 to have any discussions with you to try to find ways and
06:02 PM 6 means.

06:02 PM 7 COMMISSIONER SENN: I guess I will have to say this. I am
06:02 PM 8 troubled by the companies who come here and say that they
06:02 PM 9 cannot release names or they cannot do something to comply
06:02 PM10 with Washington law because the law in their home
06:02 PM11 countries doesn't allow them. But you want to do business
06:02 PM12 here in the State of Washington, and part of doing
06:02 PM13 business here is complying with our laws. So the
06:02 PM14 legislature, in its wisdom, enacted a law saying we should
06:02 PM15 have a registry in names, in this particular circumstance
06:02 PM16 you can understand so we can identify whether or not our
06:02 PM17 citizens have claims.

06:02 PM18 MR. TIMOTHY PARKER: Commissioner, if I might say, I can't
06:02 PM19 imagine you are suggesting the company should violate
06:02 PM20 French law or Belgium law. I haven't heard anyone say
06:03 PM21 those laws don't exist. This was a problem anticipated by
06:03 PM22 the legislature when they adopted our statute. In reading
06:03 PM23 Section 5, it says to the Commissioner to get into
06:03 PM24 agreement with the foreign countries. That situation was
06:03 PM25 anticipated, and I believe that the offer from Axa

06:03 PM 1 facilitates any meeting or agreement you can reach with

06:03 PM 2 those countries is one that should be pursued.

06:03 PM 3 DEPUTY COMMISSIONER COOPERSMITH: Well, let's first make

06:03 PM 4 sure we have Mr. Ferras' testimony accurate.

06:03 PM 5 Are you stating that the company's only objection

06:03 PM 6 to releasing the names of its policy holders from 1933, to

06:03 PM 7 1945, is the law in France or in Germany, where you were

06:03 PM 8 doing business? Is that the only objection?

06:03 PM 9 MR. PHILLIPE FERRAS: The company has released the names.

06:03 PM10 No, sir. It would be unfair to state it like that.

06:03 PM11 COMMISSIONER SENN: Okay.

06:04 PM12 MR. PHILLIPE FERRAS: Regarding the list of Holocaust

06:04 PM13 unpaid policies, we are 200 percent behind the fact that

06:04 PM14 these should be published, clearly.

06:04 PM15 Now, if you ask our company to publish the whole

06:04 PM16 list of unpaid policies, even if the law were not -- would

06:04 PM17 not prevent us from doing this, I am not sure that we

06:04 PM18 would be prepared to do it.

06:04 PM19 May I just give you an idea? Let's assume -- and

06:04 PM20 this has to be confirmed by the audit -- let's assume that

06:04 PM21 we have 33 Holocaust unpaid policies, and it's 33. Too

06:04 PM22 much, but this is it. Maybe it's a little more. I don't

06:04 PM23 know. But these 33 policies and 50,000 unpaid policies.

06:05 PM24 I mean, you see it is not the same -- how do you say it --

06:05 PM25 proportion? Do you see what I mean?

06:05 PM 1 Number 2, I don't know how it is in the United
06:05 PM 2 States, but buying a life policy is quite often something
06:05 PM 3 very personal, which you don't want to share with others
06:05 PM 4 with which you are very near, family or others. And I
06:05 PM 5 think that the insurer has to keep the confidentiality of
06:05 PM 6 these and not disclose.

06:06 PM 7 DEPUTY COMMISSIONER COOPERSMITH: So will Axa resist
06:06 PM 8 disclosure -- oppose disclosure, even if these supposed
06:06 PM 9 conflicts of law between Washington State law and Europe
06:06 PM10 law are resolved?

06:06 PM11 MR. PHILLIPE FERRAS: We didn't give a real thought to it.
06:06 PM12 But I am coming here maybe too French, but in an attitude.
06:06 PM13 You ask me this question. We have not really given
06:06 PM14 thought to it. I just give you my own feeling as a
06:06 PM15 European man, having been a man in this industry for some
06:06 PM16 years, and I don't see that we would -- I don't know.
06:06 PM17 Would you do it in the US? Would you publish the lists of
06:06 PM18 your policy holders? It is an open question. I don't
06:06 PM19 know.

06:06 PM20 COMMISSIONER SENN: Let me answer this is a very usual
06:06 PM21 circumstance. Number 1, --

06:06 PM22 MR. PHILLIPE FERRAS: Sure.

06:06 PM23 COMMISSIONER SENN: -- okay, there are thousands and
06:06 PM24 thousands of people who never were paid. Number 2, this
06:07 PM25 is not about embarrassing people who bought life

06:07 PM 1 insurance. If you think about the time frame, most of the
06:07 PM 2 people whose names appear on that list are already dead.
06:07 PM 3 It's going to benefit those who don't know they have a
06:07 PM 4 claim. So I think that the unlikely reason of privacy
06:07 PM 5 protection is so important it's really overshadowed here
06:07 PM 6 by the justice for those who are heirs. Because I don't
06:07 PM 7 even think you invade privacy when lists are that old and
06:07 PM 8 most of the people no longer are alive.

06:07 PM 9 MR. PHILLIPE FERRAS: Madam, may I very simply --

06:07 PM10 COMMISSIONER SENN: Yes.

06:07 PM11 MR. PHILLIPE FERRAS: I don't want to be conflicting with
06:07 PM12 you, but I disagree. Number 1, we are talking of France
06:08 PM13 and Belgium. You know the number of Holocaust victims in
06:08 PM14 France, 75,000, and we are far from the two points,
06:08 PM15 9 million in Poland. Now, how many can we see claims? We
06:08 PM16 see from the United States none, so far.

06:08 PM17 So I agree that one injustice has to be repaired,
06:08 PM18 and if there was -- even if there was one policy. But for
06:08 PM19 Germany, we have clearly put in place everything we could
06:08 PM20 do. And it was a tremendous effort. Can you imagine
06:08 PM21 putting 570,000 names on a data bank. We did the same in
06:08 PM22 France. But then if you ask us please publish your list
06:09 PM23 of unclaimed policies, when we think we have 33, that is
06:09 PM24 in balance.

06:09 PM25 DEPUTY COMMISSIONER COOPERSMITH: But I urge you. Would

06:09 PM 1 you please get in touch with the French authorities and
06:09 PM 2 let us work out a practical way to find the people? You
06:09 PM 3 will never know the true number until you have published
06:09 PM 4 all the names of policy holders. That is Commissioner
06:09 PM 5 Senn's point.

06:09 PM 6 You have to remember that this law was enacted by
06:09 PM 7 the state legislature after Commissioner Senn conducted
06:09 PM 8 extensive hearings and after the legislature itself
06:09 PM 9 conducted extensive hearings. That's what established it.
06:09 PM10 These are very extraordinary circumstances, where it is
06:09 PM11 not like the usual policy holder or his or her heirs that
06:09 PM12 can establish, through documentation, what is rightfully
06:09 PM13 theirs. They can't do it under these circumstances.

06:09 PM14 MR. PHILLIPE FERRAS: I agree with you. I agree with you.
06:09 PM15 But we -- I think that what you say that we are in a
06:10 PM16 catch-22 situation. What can we do?

06:10 PM17 COMMISSIONER SENN: Let me say the 570,000 names to
06:10 PM18 finally --

06:10 PM19 MR. PHILLIPE FERRAS: Of Germany.

06:10 PM20 COMMISSIONER SENN: -- of Germany -- are German. You
06:10 PM21 know, your law is supposed to protect Frenchmen.

06:10 PM22 DEPUTY COMMISSIONER COOPERSMITH: He's making the
06:10 PM23 distinction that the French law doesn't govern the
06:10 PM24 570,000.

06:10 PM25 COMMISSIONER SENN: So why not run the 570,000 names

06:10 PM 1 against Yad Vashem's list?

06:10 PM 2 MR. PHILLIPE FERRAS: We have made our search of our

06:10 PM 3 Holocaust file.

06:10 PM 4 COMMISSIONER SENN: We don't agree with that process, nor

06:10 PM 5 does our statute.

06:10 PM 6 MR. PHILLIPE FERRAS: This is the first time I hear it.

06:10 PM 7 We have been asked by Yad Vashem would you please provide

06:10 PM 8 the Holocaust victim files? We did it. So we have had an

06:10 PM 9 audit. We will have the super audit, if I can say, of

06:10 PM10 ICHEIC. If our procedure is found irrelevant, then

06:11 PM11 somebody will have to say on the basis of what they have

06:11 PM12 seen. But as long as we have done the job correct, who

06:11 PM13 said how we had to do the job. We had the auditors doing

06:11 PM14 it.

06:11 PM15 And, by the way, somebody was questioning why

06:11 PM16 don't you go so fast and to tell you to put 50,000 names

06:11 PM17 for the French in two years with 80 people, because if you

06:11 PM18 want to be serious you have a double count. Otherwise,

06:11 PM19 with names you make mistakes. So it is a tremendous job.

06:11 PM20 COMMISSIONER SENN: We salute you for doing that.

06:11 PM21 MR. PHILLIPE FERRAS: Thank you.

06:11 PM22 COMMISSIONER SENN: Because many of the companies haven't

06:11 PM23 done it. This is the first we have heard you have names

06:11 PM24 on the disk, German and French and then Belgium names.

06:11 PM25 MR. PHILLIPE FERRAS: I'm sorry. We have done it, and we

06:11 PM 1 see auditors so far say it has been done properly. ICHEIC
06:12 PM 2 will check it. Now, if the system -- probably all of
06:12 PM 3 Greece -- if the auditors say well, now, this is not the
06:12 PM 4 proper procedure, then we have to revisit everything. It
06:12 PM 5 will take some time.

06:12 PM 6 But this is where we stand, and as long as we have
06:12 PM 7 followed the procedure exactly as it was requested, and as
06:12 PM 8 long as the auditors appointed by ICHEIC have not said it
06:12 PM 9 is incorrect, I stick to the procedure we followed.

06:12 PM10 COMMISSIONER SENN: But let's not prolong this. I just
06:12 PM11 want you to understand that just because it is an ICHEIC
06:12 PM12 procedure doesn't necessarily mean it complies with
06:12 PM13 Washington State law. So that's why we are having this
06:13 PM14 hearing, exploring some of those procedures that are
06:13 PM15 satisfactory to us.

06:13 PM16 You're tired. I don't want to prolong this.
06:13 PM17 Quickly, let's turn our attention to two questions about
06:13 PM18 how you defined unpaid and paid and your position on
06:13 PM19 blocked accounts and policies in which restitution is
06:13 PM20 involved. So I put three of the questions to you quickly.
06:13 PM21 Can you follow, and can you answer?

06:13 PM22 MR. PHILLIPE FERRAS: An unpaid policy is a policy which
06:13 PM23 hadn't been paid full stop.

06:13 PM24 COMMISSIONER SENN: To whom?

06:13 PM25 MR. PHILLIPE FERRAS: Now, when a policy has been paid --

06:13 PM 1 you're smiling, but it is not now --

06:13 PM 2 COMMISSIONER SENN: I like the full stop expression.

06:14 PM 3 MR. PHILLIPE FERRAS: Thank you. Excuse me. When you pay

06:14 PM 4 a policy, the policy has been paid in 1950. Let's say ten

06:14 PM 5 years afterwards you try to find -- if you keep records of

06:14 PM 6 the file -- you may have kept records, but you don't have

06:14 PM 7 the file. So if you ask me to whom you paid, nobody could

06:14 PM 8 give the proof. And I'm not sure in America, also, you

06:14 PM 9 could give, because there are distribution process which

06:14 PM10 nobody would say -- could say yes, I paid on such and such

06:14 PM11 date to Mr. X, who is the proper beneficiary, it has been

06:14 PM12 paid. So when you ask me can you prove it was paid to the

06:14 PM13 proper beneficiary we have problems there.

06:15 PM14 Now, for Germany we have -- this is good in German

06:15 PM15 archives. We put all what we had, even files, in

06:15 PM16 archives, and we looked into the archives which is where

06:15 PM17 the Holocaust victim files.

06:15 PM18 If you find policies which were paid -- and now I

06:15 PM19 am coming to the next question -- which were paid to

06:15 PM20 blocked accounts or which were confiscated, and then it

06:15 PM21 shows this policy which has been paid, but which we found

06:15 PM22 which has been paid to blocked accounts or which has been

06:15 PM23 confiscated, and I take my critique. These policies have

06:15 PM24 been selected to pay the day the International Commission

06:16 PM25 decided if it has been -- in this case the company has to

06:16 PM 1 pay again or has not to pay again or has to make a
06:16 PM 2 humanitarian payment. We abide by this criteria.
06:16 PM 3 But when -- so number 1, an unpaid policy is just
06:16 PM 4 a policy still on our records. We can say it is unpaid in
06:16 PM 5 the German case, because this is German. The only case it
06:16 PM 6 didn't happen in Belgium. I say a few words. It is not
06:16 PM 7 relevant, but for Germany the policies which have been
06:16 PM 8 paid to blocked accounts who were Holocaust relevant, we
06:16 PM 9 have the -- if the decision is do this or do that, we will
06:16 PM10 do it.
06:16 PM11 COMMISSIONER SENN: In your current accounting system are
06:16 PM12 you counting blocked accounts as paid accounts?
06:16 PM13 MR. PHILLIPE FERRAS: In our accounting system?
06:16 PM14 COMMISSIONER SENN: Yes. When you say you have a certain
06:17 PM15 number of claims outstanding unpaid, does that mean you
06:17 PM16 consider payments made to blocked accounts paid?
06:17 PM17 MR. PHILLIPE FERRAS: If you have ever been in any bank or
06:17 PM18 any institution when payment has been made, it is stated
06:17 PM19 it is paid. So it is no more in reserve. Now, if we are
06:17 PM20 requested it is no, and if there -- now we are requested
06:17 PM21 will you please make another payment or another type of
06:17 PM22 payment, we will do it. But we don't have it in reserve.
06:17 PM23 Anyway, it's minimal money.
06:17 PM24 COMMISSIONER SENN: Do you know what percentage of your
06:17 PM25 570,000 and 55,000 are blocked accounts?

06:17 PM 1 MR. PHILLIPE FERRAS: I don't. I don't have it here. I
06:17 PM 2 don't have the answer here. What I know is the number of
06:18 PM 3 Holocaust relevant files, and it is in this that we would
06:18 PM 4 see the policy was a policy of a Holocaust victim. It was
06:18 PM 5 normally paid sometimes after the war, sometimes before
06:18 PM 6 the war, or we have indications that this policy was paid
06:18 PM 7 to a blocked account. This is the way we can find the
06:18 PM 8 answer to your question.

06:18 PM 9 COMMISSIONER SENN: But you've stated your willingness to
06:18 PM10 abide by the Commission's decisions on blocked accounts,
06:18 PM11 correct?

12 MR. PHILLIPE FERRAS: Yes.

06:18 PM13 DEPUTY COMMISSIONER COOPERSMITH: But what position are
06:18 PM14 you going to take? Are you going to oppose it or support
06:18 PM15 the payment?

06:18 PM16 MR. PHILLIPE FERRAS: Sir, we are, I would say, in
06:18 PM17 discussion of a number of -- a number of items -- of a
06:19 PM18 number of items on the tape. I won't tell you I will take
06:19 PM19 this issue on. And this issue, it is an ongoing process.
06:19 PM20 The US regulators are part -- part of it, and we will
06:19 PM21 abide by the decision of this party.

06:19 PM22 COMMISSIONER SENN: Let me just say this, Mr. Ferras. I
06:19 PM23 think that the publication of names for Axa is especially
06:19 PM24 important, because people don't know that Axa owns
25 Colonia -- is it Colonia?

1 MR. PHILLIPE FERRAS: Axa Colonia.

06:19 PM 2 COMMISSIONER SENN: -- Axa Colonia. Certainly if Axa puts

06:19 PM 3 an ad in the paper, and, you know, people just don't

06:19 PM 4 understand that the French company actually owns the

06:19 PM 5 former German company.

06:20 PM 6 MR. PHILLIPE FERRAS: May I, again, very unpolitically

06:20 PM 7 disagree with you. We take full responsibility for all

06:20 PM 8 the companies we have acquired. No question about that.

06:20 PM 9 And this is why we put Axa on all -- including Axa

06:20 PM10 Financial now. So we take full responsibility.

06:20 PM11 But if you think that the Holocaust victims will

06:20 PM12 find the policies through Axa, no way. Because Axa is a

06:20 PM13 name which was created ten years ago.

06:20 PM14 COMMISSIONER SENN: That's my point.

06:20 PM15 MR. PHILLIPE FERRAS: So the important thing is that the

06:20 PM16 people will set their -- first, the list of names of

06:20 PM17 German Holocaust survivors will be published. No

06:20 PM18 question. But if somebody who is not on the list thinks

06:20 PM19 that it may have a claim against one of our companies, it

06:21 PM20 will -- with the Outreach process it will go through

06:21 PM21 ICHEIC, and the ICHEIC has the full family tree of our

22 companies.

06:21 PM23 And, by the way, you didn't put the question

06:21 PM24 that --

06:21 PM25 COMMISSIONER SENN: I'm about to.

06:21 PM 1 MR. PHILLIPE FERRAS: The answer is yes, we -- when I
06:21 PM 2 appeared in front of the California Insurance Commissioner
06:21 PM 3 the list was not fine tuned. It is fine tuned. It has
06:21 PM 4 been given to the ICHEIC, and our lawyers will be happy to
06:21 PM 5 provide it to you.

06:21 PM 6 So what is important is that the name of these
06:21 PM 7 companies are at the ICHEIC, and the ICHEIC can distribute
06:21 PM 8 it to us. But if somebody says it would be found -- if
06:22 PM 9 somebody would say I have a policy against Axa, Axa didn't
06:22 PM10 exist.

06:22 PM11 MR. TIMOTHY PARKER: This is just information that we
06:22 PM12 would want to take full advantage of, the confidentiality
06:22 PM13 provisions given under 4804, and we will provide it
06:22 PM14 subject to that.

15 COMMISSIONER SENN: Oh, wait a minute. Wait a minute.
06:22 PM16 Let me ask you a question. If you don't put that family
06:22 PM17 tree out there, how is some 80-year-old survivor who has
06:22 PM18 got a policy from Colonia -- is that right?

06:22 PM19 MR. PHILLIPE FERRAS: Axa Colonia.

06:22 PM20 COMMISSIONER SENN: -- Axa Colonia, how are they going to
06:22 PM21 know -- when their policy says Colonia, not Axa, how are
06:22 PM22 they going to know that they've got to include to Axa,
23 Tim?

06:22 PM24 MR. TIMOTHY PARKER: Well, there has been testimony all
06:22 PM25 day on that subject, and I'm not the one to address that.

06:22 PM 1 But I am the one to say that under Washington law this
06:22 PM 2 company has certain rights of confidentiality set out in
06:22 PM 3 Section 5 that we want to take full advantage of.
06:22 PM 4 DEPUTY COMMISSIONER COOPERSMITH: You can certainly assert
06:22 PM 5 that.
06:22 PM 6 COMMISSIONER SENN: You can assert it, but we're to
06:22 PM 7 determine whether it's --
06:22 PM 8 DEPUTY COMMISSIONER COOPERSMITH: Well, the determination
06:22 PM 9 is made by the Commissioner.
06:23 PM10 MR. TIMOTHY PARKER: I'm sure, Jeffrey, you and I can work
06:23 PM11 that out.
06:23 PM12 MS. WENDY COOPER: I would also add, Commissioner, it is
06:23 PM13 not incumbent on a potential claimant to determine if they
06:23 PM14 have to send the claim to the Axa Group in Paris. Because
06:23 PM15 what we're talking about is a holding company. That's the
06:23 PM16 whole purpose of the International Commission. They have
06:23 PM17 a place to send their claim. So if they can't determine
06:23 PM18 -- and actually in this instance that we're using, Axa
06:23 PM19 Colonia, the name of Colonia has not changed since the
06:23 PM20 war. So they could send that now directly to Axa Colonia
06:23 PM21 in Germany, and when Phillipe testified in terms of the
06:23 PM22 numbers of claims that had been received directly, that's
06:23 PM23 what he meant. They went directly to Colonia. They
06:23 PM24 didn't go to the Axa Holding Group in Paris.
06:23 PM25 But I was just going to offer that I appreciate

06:23 PM 1 very much your sensitivity about publishing names, but I
06:24 PM 2 think what also is important here is that your
06:24 PM 3 constituents should feel very comfortable, even in the
06:24 PM 4 absence of a published list, that if they give you the
06:24 PM 5 potential of having a claim it will be forwarded to the
06:24 PM 6 Commission, and the Commission is going to treat that very
7 seriously.

06:24 PM 8 COMMISSIONER SENN: But my constituents, some of which
06:24 PM 9 were in the room today, who have clearly documented
06:24 PM10 claims, have sent their names along and have been
06:24 PM11 rejected. So, I mean, my constituents don't have a great
06:24 PM12 deal of confidence in the process up until now.

06:24 PM13 MR. TIMOTHY PARKER: Have any of them been rejected by
06:24 PM14 Axa?

06:24 PM15 COMMISSIONER SENN: No. You're lucky on this one, Tim.
06:24 PM16 No, but we do actually have some claims.

17 MR. PHILLIPS FERRAS: And you also have --

18 COMMISSIONER SENN: Yes, we do.

06:24 PM19 MR. PHILLIPE FERRAS: But are you aware of it or not?

06:24 PM20 COMMISSIONER SENN: I did not realize that we had Axa
06:25 PM21 claims. I just learned about it. Because I don't know
06:25 PM22 the family tree of Axa. So if I, the Commissioner, don't
06:25 PM23 know the family tree of Axa, how is some 80-year-old
06:25 PM24 survivor going to figure it out?

06:25 PM25 MR. PHILIPPE FERRAS: The sooner they get it the better.

06:25 PM 1 COMMISSIONER SENN: But that, again, was my point, was
06:25 PM 2 that was the purpose of the Commission.

06:25 PM 3 MS. WENDY COOPER: That was one of the purposes of the
06:25 PM 4 Commission, that a survivor would not have to try to
06:25 PM 5 determine that, and all these claims would be filed
6 through the Commission.

06:25 PM 7 MR. PHILLIPE FERRAS: May I make a remark? Fortunately
06:25 PM 8 for the IC process France is a country where the market
06:25 PM 9 share of the MOU companies is the largest. 60 percent of
06:25 PM10 the market share of 1938, is composed of companies which
06:25 PM11 are today members of the ICHEIC process, which is the
06:26 PM12 highest around the whole Europe.

06:26 PM13 So you should have some confidence that if you
06:26 PM14 sent a claim regarding France to ICHEIC, I would say that
06:26 PM15 in 60 percent of the cases you may have a good match, if
06:26 PM16 the claim is documented. And this is a real issue.
06:26 PM17 Because even in claims we received in the Fast-Track
06:26 PM18 process, Axa Colonia could give a positive answer to a
06:26 PM19 certain number and a negative in terms of it was paid and
06:26 PM20 this is --I totally agree that a claimant would say oh, I
06:26 PM21 found the policy of my father or my mother had a policy.
06:26 PM22 He doesn't know that the policy was paid. Okay, we can
06:26 PM23 give him the proof.

06:26 PM24 But in most -- in the cases where we say no, it is
06:26 PM25 because really what was provided to us in terms of

06:26 PM 1 documents was clearly insufficient.

06:27 PM 2 COMMISSIONER SENN: But, see, here is maybe what the crux
06:27 PM 3 of this is. You're saying to us -- you're saying to us
06:27 PM 4 let the survivors contact us, and we will figure out if
06:27 PM 5 they have a policy, as opposed to you're saying we've got
06:27 PM 6 policies, let's look for the policy holders or their
7 heirs.

06:27 PM 8 Now, you're going to counter that by saying well,
06:27 PM 9 we did that, and we found our 33 names. But, once again,
06:27 PM10 we have some differences about how you're defining and how
06:27 PM11 you're coming up with those 33 names.

06:27 PM12 MR. PHILLIPE FERRAS: Commissioner, I wanted -- maybe it's
06:27 PM13 a privilege of being a foreigner and coming in last. I
06:27 PM14 wanted to add something which has not been said.

06:27 PM15 I support totally what Bobby Brown said. We want
06:27 PM16 that for each claim you pay, you give the explanation of
06:28 PM17 the valuation. This is an instruction. We do it within
06:28 PM18 our company. But on top of it, anybody who is not
06:28 PM19 satisfied will have the possibility of an appeal, which
06:28 PM20 means that it is not our decision under the control of the
06:28 PM21 regulators if you receive a copy of our letter and of the
06:28 PM22 ICHEIC London, which receives also a copy. But this will
06:28 PM23 be a decision which will be appealed if necessary, and I
06:28 PM24 think this should give comfort to the claimants.

06:28 PM25 COMMISSIONER SENN: I guess I only have one last -- no, I

06:28 PM 1 have two last questions.

06:28 PM 2 First of all, you have paid how many claims now?

06:28 PM 3 MR. PHILLIPE FERRAS: I will get the numbers for you. My

06:29 PM 4 count is five, and we have offers which are 20. That's my

06:29 PM 5 count, Germany and France.

06:29 PM 6 COMMISSIONER SENN: Is that just Colonia?

06:29 PM 7 MR. PHILLIPE FERRAS: Oh, no. No. No, the company's name

06:29 PM 8 Axa Colonia, and --

06:29 PM 9 COMMISSIONER SENN: That's the German claims.

06:29 PM10 MR. PHILLIPE FERRAS: The German claims. We have --

06:29 PM11 clearly Axa is an international company based in Paris.

06:29 PM12 We have a decentralized organization, and for Germany,

06:29 PM13 Czechoslovakia, Austria, if we were to have claims, all

06:29 PM14 these claims are treated directly in Germany, in Köln,

06:29 PM15 under my supervision. But this is decentralized. And all

06:30 PM16 the claims we had so far from the United States or from

06:30 PM17 ICHEIC have been claims against our newly acquired German

06:30 PM18 operations.

06:30 PM19 COMMISSIONER SENN: I guess my last question is on New

06:30 PM20 Years did you see the Eiffel Tower light up?

06:30 PM21 MR. PHILLIPE FERRAS: May I have a question for you? Did

06:30 PM22 you like it?

06:30 PM23 COMMISSIONER SENN: Given what was going on in Seattle,

06:30 PM24 yes.

06:30 PM25 MR. PHILLIPE FERRAS: No, we had a terrible storm.

06:30 PM 1 COMMISSIONER SENN: That's true. You did have a terrible
06:30 PM 2 storm.
06:30 PM 3 MR. PHILLIPE FERRAS: We had a terrible storm, and a
06:30 PM 4 number of -- if you go to work you think that it reminds
06:30 PM 5 me what I have seen on TV during the Vietnam war or what I
06:30 PM 6 have seen in pictures of what the Great War in 1916 and
06:30 PM 7 '17, forests totally down. But the New Years was good.
06:31 PM 8 COMMISSIONER SENN: That's good.
06:31 PM 9 MR. PHILLIPE FERRAS: Thank you.
06:31 PM10 COMMISSIONER SENN: Thank you very much. We appreciate
06:31 PM11 it.
06:31 PM12 DEPUTY COMMISSIONER COOPERSMITH: And you, too, will be
06:31 PM13 getting the letter outlining what the Commissioner is
06:31 PM14 seeking from you in detail. Thank you.
06:31 PM15 COMMISSIONER SENN: I think we are done. Thank you all
16 very much.

17 (Hearing adjourned at 6:40 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON -- COUNTY OF KING

I, the undersigned officer of the Court,
under my commission as a Notary Public in and for the
State of Washington, hereby certify that the foregoing
hearing was taken stenographically before me and
thereafter transcribed under my direction; that the
transcript of the hearing is a full, true and correct
transcript; that I am neither attorney for, nor a relative
or employee of any of the parties; further, that I am not
a relative or employee of any attorney or counsel employed
by the parties hereto, nor financially interested in its
outcome.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 28th day of January, 2000.

NOTARY PUBLIC in and for the
State of Washington. Residing
at Bellevue. My commission
expires 7-20-2000.